

COUNCIL MEETING

JULY 11, 2012

The Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, Historic County Building, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, July 11, 2012 at 9:57 a.m., and the following members answered the call of the roll:

Honorable Tim Bynum (excused at 2:02 p.m.)
Honorable Dickie Chang
Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Council Chair

APPROVAL OF AGENDA.

Mr. Kuali'i moved for approval of the agenda as circulated, seconded by Ms. Yukimura, and unanimously carried.

MINUTES of the following meetings of the Council:

1. Minutes of the May 9, 2012 Council Meeting
2. Minutes of the June 6, 2012 Special Council Meeting
3. Minutes of the June 20, 2012 Special Council Meeting
4. Minutes of the June 27, 2012 Public Hearing Re: Resolution No. 2012-44, Resolution No. 2012-45, and Resolution No. 2012-46

Mr. Kuali'i moved for approval of the minutes as circulated, seconded by Mr. Bynum, and unanimously carried.

Council Chair Furfaro: Mr. Clerk, before we go to the Consent Calendar, I will attempt at every meeting to read the rules related to the Consent Calendar. The Consent Calendar is provided early on for anyone who wants to speak on particular items that have been initiated for narrative and dialogue only. There will be no response questions from the Councilmembers. This is done for the intent of being able to give some specific time for certain calendar items. Those that wish to speak will be given three minutes. There will be no questions from the Council, but in fact if you testify on a particular item, you will not be able to come back later in the agenda to testify. Is there anyone that wants to speak on the three Consent Calendar items that are presented today? Seeing no one...oh, we have someone. My apologies. Let me finish the announcement. Any item on the Consent Calendar or any other items that wishes to spend their three minutes now. If not, I recognize you, Ma'am, you will have to introduce yourself again for the record and then you have three minutes.

There being no objections, the rules were suspended.

DOROTHEA HAYASHI: Dorothea Hayashi from Hanapēpē. I am here about the Smoking in the Parks Bill or Ordinance. I am here to ask that we do not already...this is getting a little bit too much for myself I feel. I am a nonsmoker; I have never smoked in my life; in my family, I just have one person who smokes. The thing is that I think we are going a little bit too far already when we are saying

that, you know, in the parks because there are so many people that go to the parks to enjoy the open air, and I think we are courteous enough, the public, we are. And I have had incidences where people have smoked near me, and even if it is a smoking area, I have asked them if they could go downwind, and they have responded positively usually. I have never run into anyone that has been negative about it, and I think to enforce it, because we have so many ordinances that are...you cannot enforce it anymore. And even like I was just going to mention as an example the plastic bags, which was so funny because I was on O'ahu just this past week, and my daughter had a whole bunch. She said, "Mom, here, take these home." I found out that I am not the only one who brings home bags from O'ahu because if I am going to pack my mangoes, I either have to go look for a box...those paper bags are impossible. It just pukas right through. I am not going to go out to buy special plastic bags just to give my neighbors. Who is there to enforce it? Nobody is there at the airport to say you cannot bring paperbags from O'ahu or the mainland. And I know that I am not the only one that has done it. Well, this is the first time I have done it because I ran out of plastic bags. So I ask you to please...I do not know how to say it, but I think common sense has to come into play at some time in our lives. So you just have to educate the public and may I have time to give another example?

Council Chair Furfaro: You still have the floor.

Ms. Hayashi: I was in Salt Pond a few weeks ago because my grandchildren were here. Usually I do not go, which I am sorry to say, but there is a big sign that says "No Dogs," right? And here this woman comes with two dogs on a leash and this is like after the lifeguard goes. I guess they know when. And she releases the dogs, and they are running, and they are peeing here, peeing there. They are not big dogs, which is safe in a way, but they still could bite. But see, who is there to enforce? No one. I do not have any...how shall I say (inaudible) to tell her you are fined. So we have all of these ordinances, and I think that we have to realize that there is a time already where we really have to put common sense into play and that is all I ask of you. Thank you.

Council Chair Furfaro: Thank you, Ms. Hayashi. Is there anyone else in the crowd that would like to give their testimony now rather than follow the agenda item as placed?

There being no objections, the meeting was called back to order, and proceeded as follows:

CONSENT CALENDAR:

C 2012-206 Communication (06/13/2012) from the Mayor, transmitting for Council information, Mayoral appointee Luke A. Evslin to the Public Access, Open Space, & Natural Preservation Fund Commission, replacing Ms. Johanna Ventura, and whose partial term ends 12/31/2013: Mr. Rapozo moved to receive C 2012-206 for the record, seconded by Mr. Kualii, and unanimously carried.

C 2012-207 Communication (06/28/2012) from Councilmember Rapozo, transmitting for Council consideration, amendments to Chapter 8, Kaua'i County Code 1987, as amended, relating to the creation of a Planning Enforcement Account for Civil Fines that will enable the Planning Department to have funds readily available for the enforcement of codes, statutes, and regulations it has authority to enforce: Mr. Rapozo moved to receive C 2012-207 for the record, seconded by Mr. Kualii, and unanimously carried.

C 2012-208 Communication (06/29/2012) from Councilmember Nakamura, transmitting for Council consideration, amendments to Chapter 5A, Kaua'i County Code 1987, as amended, relating to Real Property Tax, that aligns the deadline for the Department of Finance to submit the Certified Real Property Tax Assessment List with the submission of the Mayor's proposed annual budget, and incorporates amendments adopted via Bills Nos. 2415 and 2416 to Sections 5A-9.1(a), 5A-11.4, and 5A-11.30, which were inadvertently omitted in Bill No. 2417 before its approval: Mr. Rapozo moved to receive C 2012-208 for the record, seconded by Mr. Kualii, and unanimously carried.

Council Chair Furfaro: The items on the Consent Calendar are complete. Let us go to Economic Development.

There being no objections, C 2012-211 was taken out of order.

COMMUNICATIONS:

C 2012-211 Communication (06/29/2012) from the Director of the Office of Economic Development, requesting Council approval to apply for, receive, and expend an estimated \$400,000 yearly, subject to annual availability of the Transient Accommodation Tax Collection and the Hawai'i Tourism Authority (HTA) Board approval, for a 3-year contract with HTA to conduct a County of Kaua'i Product Enrichment Program to coordinate the development and maintenance of Kaua'i's niche markets of cultural, health and wellness, educational, technology, agricultural, sports, and nature tourism: Mr. Kualii moved to approve C 2012-11, seconded by Mr. Chang.

Council Chair Furfaro: We have a motion to approve and a second. On that note, Mr. Costa, I will suspend our rules and ask you to come up for your presentation.

There being no objections, the rules were suspended.

GEORGE COSTA, Director of the Office of Economic Development: Aloha, Council Chair Furfaro, Councilmembers, good morning. George Costa, Director for the Office of Economic Development for the record. I just wanted to thank you for your approval in our application and receipt and expenditure of these Hawai'i Tourism Authority funds. Every year we worry about our Transient Accommodations Tax. Will Kaua'i get its fair share? And what we are seeing today is those tax revenues that the State receives, which come from our visitors that visit Kaua'i and the rest of the State going full circle and now coming back to our island and being utilized within our communities, and this is one segment where it helps our communities and it also promotes our culture to our visitors. And so without going further, what I would like to do is acknowledge and bring up Nalani Brun, who is actually our Tourism Specialist in the Office of Economic Development, to give you a summary of what she does with regards to a lot of these programs. What I have here is a worksheet that I created for myself. It is basically our budget expanded for the Office of Economic Development, our annual budget. Half of it goes towards these programs, and there are four pages that list the different cultural events and activities that take place throughout the year. Really, the person that makes it all happen is Nalani Brun, and so I would like to call up Nalani, if you could, and just say a few words on what we do with these funds.

Council Chair Furfaro: Before Nalani introduces herself, is there any way you would be willing to share your cheat sheet with us?

Mr. Costa: Oh absolutely. I can email that to you or...

Council Chair Furfaro: No, she is going to take it right now. Nalani, welcome, you will have to introduce yourself.

NALANI BRUN, Tourism Specialist, Office of Economic Development:
Nalani Brun, Tourism Specialist for the Office of Economic Development.

Council Chair Furfaro: The floor is yours to expand on George's presentation.

Ms. Brun: Just kind of expanding on the CPEP Program, the County Product Enrichment Program, these funds have been coming to us for a long time. We have worked hard to get them in the first place, and at that point the Hawai'i Tourism Authority saw fit to give to each of the Counties, so that you had homerule on figuring out what you actually wanted to fund. Basically it covers all these different niche areas, like technology, agricultural. On Kaua'i and a lot of the other islands, a lot of the money mostly goes towards cultural programs, festivals, events, some projects that are out there. They have other funding, like Natural Resources funding, Cultural Resources funding, that people can also apply to. But this specifically comes to the island, the island controls who is going to get what.

We have a selection committee. So when the funds do come in, we have a selection committee. They look at all the applications that come in, and the great thing about the application process, of course, is that we are trying to train them to be able to go apply for money in other areas. So the better they get at that, we noticed, the better they are at going out and getting sponsorships or other grants that are out there. We just want, of course, for them to be ready in case the money stops flowing, and they need to go find it somewhere else. So not only is it money that we are giving, but it is a training ground for them.

We do fund most of the big festivals that are here. We put the money together, a big HTA chunk, and then we have some money from the County that we put together, and then we score all of the different festivals and events that come in with applications, and then basically we start to fund from the top down. So usually the first chunk, which is the bigger events that have gotten really good at what they do, writing their grants, and how they put on their events or are growing, will get the first chunks of money. After that is over, we move on to the County funds, so those are a little bit smaller. They get smaller amounts of money on the way back down, but in hopes that as they go through the process, they will be rising up.

The Hawai'i Tourism Authority has put on a cap, which we are still kind of working out, but they are thinking they just want to fund an event for three years, and then completely cut them off. I am personally, and they know it, against that. I just think that it is an investment you are going to walk away from all of a sudden after all these years of building it up into this thing by pumping money into it, I think that if they do walk away, it should just be maybe walk away from operations but continue the advertising portion, so these guys can still get the word out, get more bodies there and help them, keep the money flowing. That is still being worked out.

We are hoping to apply for these funds soon because we want to go into another CPEP application process as of August or September of this year, so that we are ready for all the 2013 events that come up well ahead of them actually starting. Sometimes we get pushed late and when that happens our poor January

through March people are struggling to get everything done and get their funds before they actually put on their event. But that is basically what the County Product Enrichment Program is about.

Council Chair Furfaro: Okay. Members, questions? Mr. Rapozo.

Mr. Rapozo: Thanks, Nalani, for being here. I just have a question on how this thing works. It is a three-year contract with HTA, so that contract is for \$400,000.00 a year for three years.

Ms. Brun: Yes, that is what they plan on, but we have had them come in at the end of a year and go, okay, we do not have that much money or we have a little bit more money, and then they will amend the contract the next year or two to reflect whatever that is. But we kind of count on about \$400,000.00 a year.

Mr. Rapozo: Okay. When does that grant...should it be approved today, when do you find out if you get the grant or the contract?

Ms. Brun: I am pretty sure we have it. We got the word from HTA. They did their budgeting on June 29. So now they are trying to get together with us so we can talk all the details of the contract itself, which should be pretty much done by the end of July because they want to get cooking on this by August.

Mr. Rapozo: So we have already applied for it?

Ms. Brun: No, they have not asked for the applications. We are just kind of waiting.

Mr. Rapozo: So it is pretty much guaranteed.

Ms. Brun: I think it is a given, yes.

Mr. Rapozo: And then, George, on your sheet that is being copied right now, that list, the breakdown of past years...

Mr. Costa: No, what it is is last year and this current year. It is my way of tracking the different events. It is basically our Office of Economic Development budget. There is a line item in there for the CPEP funds, but then I have broken it out into the individual events, so we can track how much money is approved for each one of those events and when the money gets spent. So it is kind of my tracking and Nalani's tracking to ensure that by the end of either the fiscal year or the calendar year, whenever the funding is available, that the moneys are expended, and we have gotten it out to the groups that have been approved.

Mr. Rapozo: So the CPEP part here with the green...

Mr. Costa: Right, the green.

Mr. Rapozo: That is the breakdown of...

Mr. Costa: The different events and I have it in basically chronological order from January through December. So you can kind of see when the events are. There is a brief explanation under the heading as to what that event entails. A good example is this coming Kōloa Plantation Days is one of those events, and the rodeo that goes along with it. It is part of the funding.

Mr. Rapozo: So if I read this correctly, it looks like this is fiscal year 2011-2012. So this was from July 1, 2011 to June 30, 2012.

Mr. Costa: Right.

Mr. Rapozo: That is the complete funding?

Mr. Costa: That is the funding, but on the HTA CPEP side, they go on calendar year.

Ms. Brun: They are on calendar year.

Mr. Costa: Yes, so it is kind of a mixed bag.

Mr. Rapozo: Okay, so you are looking at about six months then, six months of HTA funds.

Mr. Costa: I kind of overlapped the two years. That is why when you see the two columns you see...I believe, I have on there 2010-2011 and 2011-2012 or 2011-2012 and 2012-2013 just so I can track what we are currently working on and what is yet to come up.

Mr. Rapozo: And then you heard me when the halau was here. These funds are available for them to apply for as well?

Ms. Brun: They could if they had a product. Traveling off island, that has kind of been a beast for us. There are so many people that want it from sports teams to cultural things. We did not know how to manage it when I first came, which was many, many, many years ago. So what we ended up doing was creating that Promotional Materials Program so they could take things when they wanted gifts or whatever and that is what they would use. We do not really give funds for traveling. They could get creative, which a lot of groups have done, where they go okay, what we want you to do is pay for a video of our travels and you are going to be able to use that in marketing, and then I work with, of course, the Kaua'i Visitors Bureau, and then we see if that would actually work for both of us, and if it does, then they could actually apply in here because that would be a product that is produced that can support us, and we can use it at the airports or somewhere else.

Mr. Rapozo: So it requires a product? Is that what you are saying?

Ms. Brun: It is a Product Enrichment Program. So with the Hawai'i Tourism Authority, they wanted to give us the money, keep it on island, and build up what we have to offer the visitors. So that is this specific project, the CPEP project.

Council Chair Furfaro: Excuse me...we will take a 10-minute recess here.

There being no objections, the meeting was recessed at 10:15 a.m.

The meeting was called back to order at 10:28 a.m., and proceeded as follows:

Council Chair Furfaro: I am going to make an announcement here, if I can. It seems Granicus has an issue on the mainland with the video, and so what I would like to do is I would like to finish Economic Development with the typed narrative, but then take a break and see if Granicus cannot finish it before we go to the next item. So I want to finish Economic Development now, and allowing them more than the 10 minutes I just did to resolve their equipment problem. So we will only henceforth have audio and the typed narrative. If that is what we have to do, that is what we have to do. So George, I am going to give the floor back to you and Nalani, I think you had the floor when I asked for the recess. Nalani, thank you for your patience, you have the floor, please continue.

There being no objections, the rules were suspended.

Ms. Brun: Thank you. As part of the CPEP Program...I cannot remember what the last question was. I am sorry.

Mr. Rapozo: Mr. Chair, I guess that was my last question that I asked, so let me just restate that.

Council Chair Furfaro: Why do you not restate it, yes?

Mr. Rapozo: I actually had a chance to review this on the break, so you have answered the question, and I am comfortable with that. So that is fine. Thank you, Mr. Chair.

Council Chair Furfaro: Thank you. Additional questions? KipuKai.

Mr. Kuali'i: Thank you, Chair. Aloha and mahalo to both of you for being here. Just a couple quick questions to follow up on some of the questions that have come already. So the grant is a three-year grant, and does it overlap or do you only apply every three years?

Ms. Brun: Prior to this it was every year and then they saw how frustrating it was to try to keep getting contracts signed over and over again between two government entities. So then they came to the three-year process, which was really when the Hawai'i Tourism Authority started and they are kind of semi-autonomous from the government, so it was easier for them to figure out how to do that. And so now it is a three-year grant that they are offering. We have not seen it yet because we have not done that yet. But the last one was what it was and then it is just followed up by amendments every year if something changes within the agreement.

Mr. Kuali'i: So you are now applying for a three-year grant of \$400,000 a year...

Ms. Brun: For calendar year.

Mr. Kuali'i: ...for three years starting January 1, 2013.

Ms. Brun: 2013, yes, yes.

Mr. Kuali'i: And you talked about the HTA cap of three years. So along the same cycle of that \$400,000 a year for three years, you could award a community group X-amount of dollars for three years.

Ms. Brun: Actually that started this year. So it would be in the final year, 2015, it could be a potential year when some of the events are not going to get funding. They have not worked out the details. I asked them what happens if one year they do not get funding, like they do not have the event one year, and then they start again. Do they start the three years again? But they have not come up with any of those details yet.

Mr. Kuali'i: Then the only other thing, so does HTA also have a cap on the amount that you are allowed to subgrant to any organization?

Ms. Brun: Yes, they have a cap of \$50,000. We have never actually given anyone \$50,000. The \$50,000 events are mostly coming out of the major festival account, which is something separate that HTA does. The only major festival that we have here right now is Kōloa Plantation Days. We have been trying to push Waimea Town Celebration and Waimea Heritage Festival, which would become one unit, as the next large event. They have been willing to go through all the paperwork because that is another thing. It is not just do they want the money, but can they handle all the paperwork that comes with the money because now they would be not dealing with us. We often tend to really care for our festivals and events. If they cannot write it, they are struggling, we jump in and help them. So that is the service that we provide to help them get going.

With HTA, of course, now they are jumping into another level where they need to handle things on their own. They need to have a good grant writer that is watching what they are doing. So we are encouraged by Waimea Town Celebration and their group that has been able to say that they think that they can jump to that next level, along with Kōloa Plantation Days.

Mr. Kuali'i: And you did say that you folks are focusing on cultural programs and they primarily include festivals and events.

Ms. Brun: Yes, yes, that is what has come in for applications. We kind of let the ground or whatever come up from the bottom and whatever the community decides, that is what we fund. We have pushed, we have pushed like some of the events that do not come out, maybe Hui Alu, Okinawan Festival that comes out every other year, this year I just finally had a conversation with them about this might be perfect for you guys. Why do you not come and apply if it would work for you? So they are looking for a grant writer to see because that is really the key, that you have somebody to manage those funds that we can work with.

Mr. Kuali'i: And so you actually do outreach to community groups to let them know about the availability of funds.

Ms. Brun: Yes, we have a general marketing program. A lot of it is based around KauaiFestivals.com and for that, although we push really hard for all the events that are funded, we also include anybody else, whether it is a fundraiser somewhere or...it is kind of a big calendar for all of Kaua'i to use. If the visitors want to see what is going on, they go to that site, and as part of that, we have a marketing program trying to push people to the website to get the correct information. We also do trainings throughout the year and we invite anybody. It does not just have to be the people that we fund, and it is basically on...sometimes it is on writing grants, how to get good sponsorships sometimes. We change the topics every year: how to deal with your declining volunteer workforce. They kind of tell us. I poll them to see what kind of problems they are having, and then we go out and find the information, and put together an event each year to help them.

Mr. Kualii: I think the last thing you mentioned that as a part of that training you help these organizations go after other sources of funding.

Ms. Brun: We mostly point, is what we do, we point. Some of them will actually come in and ask me to look over their grant application, whatever they are going to do, and I am happy to do that. It is kind of within the time of what I have, but we will do that and give them recommendations. But pretty much throughout the year, the ones that are going after other funds, they have been with us for a while. So they have been in all of our sessions, what we've talked about, how to ask for funds properly, how to build your budget, how to make sure you are including an area that is going to cover something that you were not planning on. Everything from teaching them how to do ADA compliance, the whole Mobi-Mat situation where we are trying to make things accessible within parks, they have all been included on that. We really consider them our partners. We could not do it without them. We love that they come from the grassroots, and they tell us pretty much what it is that they need, and then we kind of build our program around that.

Mr. Kualii: I know, too, that HTA has a direct grant program where community organizations, nonprofit groups like the Anahola Hawaiian Homes Association and the Council for Native Hawaiian Advancement, we went after a grant with HTA. It was like the Living Hawaiian Heritage.

Ms. Brun: Yes, that is their Cultural Resource Program. That is a great program. We have been hoping Kaua'i would get more of a share of those funds. Natural Resources, we do pretty good because we have some really great groups like Na Pali Coast 'Ohana and Hui O Laka up at Koke'e, so they do go after those funds, and we are just trying to encourage more in the cultural area.

Mr. Kualii: We have many gifted cultural practitioners with talents to share and then we were able to pay them to put on workshops with lauhala weaving and lei making and all of that.

Ms. Brun: They should be paid.

Mr. Kualii: All the things that build...

Ms. Brun: Our product, what we are.

Mr. Kualii: Our outdoor marketplaces and all of that, so keep up the good work. Thank you.

Council Chair Furfaro: Councilmember Nakamura.

Ms. Nakamura: Thank you very much for the update and for this handout, George. I think this tells us a lot about what is going on and how these funds are being spent, which is pretty amazing, because when I was on the HTA Board, the amount was \$400,000.00, and that was about eight years ago. So really the funding for this program has really been flat, and yet it seems like we are asked to take on additional areas, such as sports and some of the natural resources...

Ms. Brun: Projects (inaudible).

Ms. Nakamura: ...projects. So it seems like it is...I was just wondering, how many...are there a lot more applicants than funding available every year?

Ms. Brun: We almost fund...I would say maybe if we had maybe 25 applicants, which we have much more than that, then maybe there are 3 or 4 that do not get funding, and mostly it is because they just did not include all the paperwork. I know it is a horrible spanking to take, but you know what? The next year they come in with everything and that is how we want them to be so that when they apply somewhere else, they are not going to be left in the dust.

Ms. Nakamura: So we pretty much were able to meet the needs and the demands of this island then with that amount.

Ms. Brun: Yes, of course, we would always love...they would always love more, especially as we open up the sporting category. It is kind of like you have to train people to write these grants. So the sporting area is still brand new, and we are going to have to work with them like we did with the cultural area to kind of be able to do these massive applications. We are hoping it is just time and with time they will learn and they will be able to get those funds.

Ms. Nakamura: And I think as we add on, as the County develops a policy on the sporting that we can tie it into this process.

Ms. Brun: Yes.

Ms. Nakamura: And hopefully increase the amount so that the sporting events gets divvied up more evenly on this island.

Ms. Brun: Yes.

Ms. Nakamura: So that is kind of the direction I would like to see we move into.

Ms. Brun: Us too.

Ms. Nakamura: I think that is all I wanted to say. Thank you.

Mr. Costa: If I can just add, I cannot say enough of what Nalani does. Obviously when you look at this sheet, a lot of work goes not only in the workshops, the planning, the training, and then once they apply, going through the grants, and then administering the grants, and then monitoring the whole process. But a couple of years ago, really when the economy was challenged, like Councilwoman Nakamura said, these funds have been pretty flat, and so we were challenged at one point where with X-amount of funds, do we try and fund the more prominent events and then let the smaller ones...not fund them, or try and spread this money over as many groups as possible, and we took the "as many groups as possible" route because there might be one or two fledgling events that all they need is a kickstart, and become something bigger. Maybe for the first year it is \$2,000.00 and then we see they can start really organizing and building upon that. So we try to help out as many organizations on the island as possible.

Council Chair Furfaro: Mr. Chang, then Mr. Bynum, then Vice Chair Yukimura.

Mr. Chang: Thank you, Council Chair. Nalani and George, thanks for being here. So is there a list after the event that we monitor year-by-year how many visitors or how many people from off-island came to the event after the event?

Ms. Brun: Yes, we have...every year they have to do counts. They do counts from on-island participants, they do people from the mainland, people from off-island/neighbor island, and also international. They have to take a count. It has been...up until probably three years ago, it has been very haphazard. I am looking at their numbers and going there was not 5,000 people there. How are they guessing, how are they figuring out, but then we jump in and we help, okay, this is how you count. We have pulled in SMS Research to help us come up with plans on how they can count properly and get some good ideas. And then a few years ago the Hawai'i Tourism Authority instituted a survey which we had to take, which was massive. But it was just for one year and everybody had to take it, and we learned a lot from that, too, from visitor satisfaction to local satisfaction – how the locals felt. It was very wide ranged, and we learned a lot from that. After that, the great thing about that is that because we took that away, they were happy to do the numbers. They realized that was small compared to have to do that as compared to doing a survey. So we are actually getting really good numbers and we do, we keep them in a database, and we share them with the KPAA for their cultural report that they do, and we have it anytime you need it.

Mr. Chang: I want to say first of all thank you because at all these activities I see you. I know a lot of times you have to overnight, so I hope that the people realize that they are being monitored. Because for the allocation committee, when we review, as you mentioned sometimes the hardest thing to say is sorry because they cannot handle the paperwork. But I think they really need to realize that the funding is being watched. You do not just get funded because...I didn't realize so many of these activities are being supported by the HTA. In the community they do what they do, but I will give you an example. The International Spear Fishing Contest, I do not know if it is the first year that they did it, but it was down at Po'ipū Beach with the women divers. Then they had the International Pacific Rim divers. Then they had divers specifically for eradication, and I could not believe where all these guys were coming from and you do not think about that, but not only is that a great activity but that activity actually helps to eradicate the invasive species, the fish we are trying to...but I just want to say I could not believe where all these people were coming from because they were good people, many of whom were coming for the first time and I just... When I look down this list, I am happy that they are getting some sort of funding because as George had mentioned, they are on just a brink of a small...like a cusp about being able to explode. One of my questions was is it homefield advantage for the locals because they know where to dive. But all these guys can hold their breath for three or four minutes. They can all...they are all good swimmers, so it does not matter because they come early to scout, which is good for us, because they are practicing but they stay late as a post tour, so I am excited about this.

Ms. Brun: That is a great event. That was brought to us by Jonathan Barretto, and there is a good example. He came in, he knew that he had a great project in mind, he just did not quite have the know-how of how to get there, and so putting him together with the elements of how to advertise it, like the Hyatt, Stella Burgess just really helped out with that, and Margy Parker helped him with advertising and getting things together, and how to have a proper opening and closing ceremony and all of that. It ended up being a really good event. I do not know if we are ever going to get it again. It was kind of a one-time deal and then it moves around to the different Pacific Nations, but it will eventually come back here again. They said they had a great experience here as compared to I guess they were at one of the other islands before and struggled with funding. And so the funding that the County provided just made them be able to really put on a good show versus battling trying to find funding the whole time.

Mr. Chang: Yes and I just wanted to comment, being at the weigh in or seeing the weigh in, bringing all the visitors, they want to see the fish. So it is another enhancement, and it was a good time of the year to have it as such, and Chair, if I can just remind the audience if we can make sure that everybody has their cell phones on either vibration or what have you. It is a little distracting up here, but thank you.

Council Chair Furfaro: Thank you very much with that being said. Mr. Bynum, before I recognize you, just for general information, Members, the video is back on now.

Mr. Bynum: I do not really have a question right now. I have kind of followed this program for a lot of years. I will have some comments at the end when we call the meeting back to order because you are emphasizing the part, and you just did, that I think is really important that people have a passion, they have something that they want to bring to the community that is a win-win, and there is an education process. To take that passion to a pragmatic place where it actually happens is successful, and thank you for all those efforts over all the years, Nalani, thank you.

Council Chair Furfaro: Vice Chair Yukimura.

Ms. Yukimura: Thank you. The program is a wonderful program in that it is sustaining and building our diverse cultural landscape, which visitors love. Whether it is the Kaua'i Museum Program or the Kōloa Plantation Days, or Obon Festivals, that is what makes them keep coming back and makes them feel a part of the community. So I am so glad that the focus is there because years ago when I was Mayor, the money from the tourist industry was mainly funding marketing, and to have it enlightened in the sense of supporting cultural landscapes and programs is really the right way to go because it is going to keep the visitor industry strong too, and the community in love with the visitor industry. I just wanted to know if, not right now, but you can maybe send us the criteria that you use, and if there is any place, a summary of the results that you think we are getting from the program, that would be very, very useful.

Ms. Brun: Okay.

Ms. Yukimura: And thank you, Nalani, especially because this has been your kuleana. I can see the commitment to the community and to training and to having success. It just shines in who you are and what you are doing, so thank you very much.

Ms. Brun: You know it is all about...the events and the festivals and the projects, it comes from grassroots, and big mahalo to them because they have moved themselves on the calendar, they have done everything that they possibly could do to make this island really offer great stuff every single month that you come. If you come any month of the year, you are going to find something great happening on those weekends, and that is total kudos to them.

The other great thing that Kaua'i has that a lot of the other islands do not have is a great nonprofit base of organizations, that they are willing to actually take a lot of these events under their wings. A good example is like E Ola Mau Na Leo O Kekaha, I know Jose is here. They just have taken a lot of the nonprofits under their wings, helped them with their paperwork, and helped move this whole process forward. So it is really to all the goodness that the people of this island they do

whatever they can to help each other. They volunteer at everything, which is absolutely amazing. I know how exhausting that is. Of course it is to you, who allow us to give funding to the smaller guys, and to the Hawai'i Tourism Authority that has seen it in their wisdom to give us funds that go back to the Counties that we can see. We are just very grateful for that.

Ms. Yukimura: Thank you.

Council Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: Thank you. I heard it asked a few times, so with each of these events here, and I want to make sure I am looking at the right events. I know Dickie talked about the Spear Fishing Contest, but that is not part of the HTA.

Ms. Brun: That was County funded.

Mr. Rapozo: Okay, I just want to make sure I am looking at the right section. So on each of these events that you have listed on this sheet, there is a recap or a summary of what...

Ms. Brun: Yes, we have to do a big final report. When the event is done, I do a big evaluation on each one, and then that evaluation goes into a bigger report that goes up to HTA.

Mr. Rapozo: And HTA...

Ms. Brun: They collect all the data. So they put it into a bigger sheet that actually includes the other Counties and then they are trying to look at how do these festivals and events and projects actually build our economy. So they are trying to come up with this magical number, how economic indicators how it makes it all work. We actually have a couple of people that actually look at our numbers too just to see...Margy Parker is one of them. Just to kind of take an overall view of everything, what we are spending, how they are spending it, and if we can make recommendations that maybe they just need to tweak a little bit and they can get better numbers at their event. Whether it is even just spending a dollar to get in. Some of them want to have their events be free. They are so good hearted, and sometimes it might be easier if you just charge a dollar. Charge a dollar and you have some income, and on top of that you have a way to count how many people were there. So it is just making suggestions. Sometimes it is out of the box. Sometimes it is the other festivals helping each other. They take them under their wing, oh, this is what we do, and that is why it is good for us to have the gatherings because they kind of teach each other how to do it.

Mr. Rapozo: Who sits on the selection committee for the grants?

Ms. Brun: It changes. Right now it is...

Mr. Rapozo: I do not need the names, but what representation do we have?

Ms. Brun: Usually it is the Hawai'i Tourism Authority is definitely on there. There is representation from the County of Kaua'i. We usually have...lately it has been...Grove Farm has sat there. We have had past directors sometimes sit there. We like to have somebody/people that actually go to these events. So we really look for people that we have seen at the events doing it. So we

have had small businesses been in there, we have had other cultural practitioners sit on there. It has changed every year, but basically always the County and HTA are at the forefront.

Mr. Rapozo: Okay, I know Councilmember Yukimura asked for the guideline or the parameters of...

Ms. Brun: Yes, I can definitely provide that.

Mr. Rapozo: But I am just looking at a couple of them, and I am just curious because the amounts are quite high, but the E Kanikapila Kakou – 12 Monday night events where Hawai'i musicians are featured to talk story about songs they wrote or sing, and the funding is \$22,250, which comes out to a little over \$1800 a night. What typically would that go for? Are we paying the musicians?

Ms. Brun: Yes. Most of them, you will find that most of our events, the hard part is them paying for people to come down here. So it is a lot of travel to get here, to get the crowds to come there. E Kanikapila Kakou is very popular. You have to go...I think they go from 6 to 9, and at 4 o'clock the place is packed; you cannot get in there. They change their theme every year. Sometimes it is famous musicians that have writing music in their family, so then they bring the whole family down and they do that. Sometimes it is all kumu hula that have had writing experience. It changes every single year, so kudos to Carol Yotsuda, how she figure this out every year and her team, the Brocklehursts and everybody, all her volunteers, because they put on a great show, and you cannot find a seat in there if you go late. Too bad, Nalani, stand by the door, and I have stood by the door many times.

Mr. Rapozo: And then like the Banana Poka Roundup – Ecotourism event featuring education of the banana poka vine and forest care held in Koke'e. What is that?

Ms. Brun: That is a much smaller event, but it is one of our few ecotourism events. Basically you go up there, all the different...like DLNR is up there. So you have a lot of agricultural or forestry education that happens there; that is one section. And they have, of course, food. They have wonderful music which tends to...the most popular seems to be slack key music because if you sit in the Kanaloahuluhulu Meadow, it is just beautiful and quiet. You take in the birds and you hear the slack key, and that is an incredible event just like the Emalani Festival where you have her riding in on a horse, and they really capture an essence. Each and every one is so different that you want to fund them all because...and people come for the event a lot of time, trying to plan their times around when they are going to be here so they can catch some portion of it. Festivals and events here, they are incredible. They are not super-duper huge Kamehameha Day Parades that go down the middle. It is much smaller, and what we have found is the people that go there, the visitors, that is what they are looking for. They want more one-on-one. They do not want to be part of a sardine can. They want to actually enjoy it, enjoy the people, and hear stories—that is probably the most favorite thing that they do.

Mr. Rapozo: Okay, thank you. So we will wait for the summary...

Ms. Brun: Yes, I will be glad to send that.

Mr. Rapozo:

Thank you, Mr. Chair.

Council Chair Furfaro: Members, I have a few questions before we go any further. I want to remind everybody, if you want a separate agenda item to talk about specific festivals, their operation and the strategies associated with them, we will put a new agenda item. The agenda item today is applying for the process and exposing the County, maybe, to some commitments with a liability on it. So are there any more questions regarding the grant application? Yes, Mr. Kualii.

Mr. Kualii: Just quick, so with regards to the grant and the giving of the funds, are any of the moneys that you give to an association paid back to the County for anything, like use of facilities, security, traffic control, things like that or does the County also support these events by providing those in-kind?

Ms. Brun: Yes, a lot of those are in-kind. They have to keep track of that in their budgeting as they are going along because they have to provide a 1:1 match on any funds that they get. That is one thing that they do. They help us provide our in-kind to the Hawai'i Tourism Authority, so we keep track of that. In the beginning they were not very good at that. I do not think they really put the two together that it is government sources and they are all from government. So they did not know that in the beginning, but they do now, and they are keeping track of it. Mostly they do not give money back; they spend it all. From my point of view that would have to deal with trying to take money back. I am glad that they spend it, and it is pretty useful. They move moneys around. They let us know if they make big changes. So if they...okay, we have free airline. Now we are going to use it for marketing instead. So they always keep in touch with us to let us know what kind of big movements they are going to be making with their line items.

Mr. Kualii: I just wanted to mention it because I brought it up during the budget process, too, that from our side we should keep track of that too...

Ms. Brun: Yes.

Mr. Kualii: ...because we are supporting this with these grant moneys that come through HTA, but we are supporting it in other ways as well. We should quantify that and...

Ms. Brun: We should. We have talked about that before.

Mr. Kualii: Talk about all of it.

Ms. Brun: That is important.

Mr. Kualii: The only other thing is so you talk about some have fees and some do not. I think when we have events, festivals, whatever that we appreciate that small feel, that local feel. You want the mix of tourists and locals participating, and I think it is important that...and I do not know if there is a policy involved about ensuring that someone who could not pay the fee could still come. So whether 10% of the moneys go towards scholarships or some way of not closing out all those people who cannot afford the entrance fee. So just to consider that.

Ms. Brun: Yes, that is a good idea.

Mr. Kualii: Thank you, Mr. Chair.

Council Chair Furfaro: George, I have a couple questions I want to hold it last, but let me ask, Members, any more questions? George, I want to kind of put a little bit of a red flag up here for you. I want to make sure you folks have discussion in particular with the Mayor and Wally. I want to make sure when we commit \$400,000.00 in a year that in fact we are going to stand behind our commitments and this is a grant subject to State review, but at the same time you are dealing with the individual partnerships on these events, and if you commit to them that year, we need to make sure we are committed, and there is a contingency plan to fund what we committed to. I put that flag up just simply because the most recent article indicated that the State may be short \$300,000,000 to \$600,000,000 from their Revenue Forecast. We have a little cushion here because when we did the budget for the TAT tax, we had budgeted 11.8, not knowing that the legislation would cap us at 13. So we have about a million something coming to us some time later in the year. We need to convey this contingency plan to the Administration because I do not want to find out that the grant was cut short, but we had committed to an event. And I think we need to know that the County needs to stand behind our commitments. That is just a word of caution.

Mr. Costa: Okay, I appreciate that.

Council Chair Furfaro: Nalani, thank you for all you do, very much appreciated. I am going to open for public comment next if there are no further questions. Thank you very much, George.

Mr. Costa: Thank you.

Council Chair Furfaro: Nalani, thank you. Is there anyone in the audience that would like to talk or speak on this application for a promotional grant of \$400,000.00 for the County of Kaua'i? Come up, Lonnie.

LONNIE SYKOS: For the record my name is Lonnie Sykos. Good morning, Chair and Members of the Council. I would like to make an observation about what the Chair just said that funding from outside sources is continually under pressure for economic and political reasons. Because of this, I think that the County should be focusing on how do we best utilize both the resources that we have and the resources that we can potentially get. And so I am supportive of the State providing money to the Counties for these types of activities and programs. My observation has to do with the County level, which is how much effort is being expended in order to create a strategic master plan for all of our economic development activities. Having been a small business owner and being one, all of the courses that I have been to at the State Community Colleges through my industry groups, through the SBA, all of them focus not on what the good or the service is that you provide, but the basic structure of how businesses or events or contests or whatnot, how the business side of that is structured. And so the most important thing to develop both entrepreneurial businesses, as well as these social and cultural events, is that the business structure needs to be operating under the best set of best practices that we can find. And that this needs to be done systematically as part of all of the Economic Development money that we spend. And so I am supportive of what they are doing, but I would encourage the Council to encourage the Administration to come up with some metrics by which we measure when we put out an Economic Development dollar, what is the rate of return. And this is complex. I made more money spear fishing in high school than I did in all other jobs. I moved to Hawai'i, and I spear fished for a number of years and paid for a semester of college at Leeward Community College spear fishing on O'ahu. This contest is great, and they are not going to come all the time because they will wipe out that targeted big fish and leave.

Council Chair Furfaro: Lonnie, that is your first three minutes. I will give you your second three minutes.

Mr. Sykos: Thank you. And so they are much more oriented to this than we are. And so they do not want to wipe all the breeding stock out; they do not want to wipe out the biggest fish, and so they are not going to come but every number of years, and they will even go to different locations on Kaua'i. The question is who is paying attention to all of the big picture issues, and that is the function, I think, of this overview by Economic Development in developing these sets of metrics for basically what event should we provide charity to in that there is not going to be a direct economic return we can measure and which ones do we expect there to be an economic return in the future and how do we measure that. Thank you.

Council Chair Furfaro: Lonnie, thank you for your testimony on strength, weaknesses, opportunities, and threats. It will be so considered by Economic Development, I am sure. Thank you.

Mr. Sykos: Thank you.

Council Chair Furfaro: Is there anyone else that wants to testify on this Economic Development item?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Furfaro: Members, we are open for discussion. Mr. Bynum.

Mr. Bynum: I just want to applaud this opportunity to have Nalani here and explain this program, which I have tracked for a lot of years. I had the good fortune of working in Economic Development with Nalani about nine or ten years ago, and I was amazed by...and I think the public does not know the County's involvement, and the highlight that she did about educating people, I cannot think of a better win-win kind of program that the County administers than this. It nurtures local people. I attend a lot of these events and most of them are very low cost or free, and they have a very solid mix of local people and visitors, and they are connecting that; they are empowering our local cultural groups, sports groups to not only hold their events and enrich all of us, but to learn, as Nalani kept going back, to learn about how to do it appropriately with integrity and financial accountability. So I am in total support of this program and how they have branched out and the thoughtfulness that has gone into what they can focus and really studious with a large group of people about maximizing the effectiveness of these funds. It is really impressive, so thank you for the opportunity to highlight that. The County of Kaua'i has these outstanding people working every day supporting our community, and they do not get enough recognition. Sometimes the rhetoric in the public is about County workers who do not do their jobs, and I suppose there are a few of those, but the ones that I interact with day to day in this role are an outstanding group of people, and to acknowledge the Office of Economic Development, who we have really challenged, we, meaning this Council, to expand their role into other economic activities and elements in our community, but not lose sight of the things we have been doing really well for years like this program, so thank you.

Council Chair Furfaro: Other members, further discussion? Mr. Rapozo.

Mr. Rapozo: Thank you, Mr. Chair. I will be supporting the request today. I do want to reiterate the caution that you raised, as well as Mr. Sykos, that if we are working agreements with some of these projects that it should come with that caveat that it is subject to the availability of TAT funding. What I do not want to see is at the end of the year we are obligated to fund through taxpayer money, General Fund money, on agreements and contracts that we had originally intended to be funded with TAT money. It is important that we start utilizing the TAT money for these types of events. In speaking with many of the State Legislators this past session, there is a lot of concern that some of the Counties are not using the TAT money for the tourist or visitor promotion. So this \$400,000.00 is about 3% of the TAT allocation, so we still have a ways to go. But that is what they are going to start looking at, the State Legislature, as we go forward. This is a three-year contract. So that is of concern that if the TAT should dry up or be reduced that we are going to be stuck holding the bag. So I just want to be cautious of that. I do appreciate the work of OED and the support that they provide in our community. I also would like to see more highlights on the cultural events, the parades and all that stuff, that is good, and the 4th of July Celebration, but you have a good quantity of really good events here in this list, and I am not sure if this list will continue. I think getting the residents and visitors to these events so they can learn more about the culture would be critical, so I will be supporting it again with that caution. Thank you.

Council Chair Furfaro: Thank you. Any further discussion? Vice Chair Yukimura.

Ms. Yukimura: Yes, I am very happy to support this wonderful program that captures some of the visitor revenues and recycles it back into our community to build and sustain the diverse cultures that actually attract the visitors here in the first place. Because if we do not take care of our resources and support our community, then the tourist industry is going to be diminished too. And I just want to say that E Kanikapila program is such a great example of the value of this program because it is a homegrown program that came out of the talent and vision of Carol Yotsuda and others supporting her. It brings these incredible artists into a very informal environment where they get to share their craft and their art, and all the people who come out and play along and sing along. We are the envy of the other islands, and they are trying to actually emulate this program. But some visitors actually time their return to the island based on this program. It is just one example; there are so many others. This is a very good program to fund, and I appreciate Nalani and George and all the people who keep it going and keep connected to the community and support the community.

Council Chair Furfaro: Thank you. Any more before I call for the vote? Mr. KipuKai.

Mr. Kuali'i: Thank you, Mr. Chair. I, too, can support this fully and wholeheartedly. I just wanted to say that it is important in the work that the Office of Economic Development does with all of these programs to make sure that we utilize the County's...whatever...whichever way possible throughout the County's infrastructure to promote all of these events. I think a lot of times people here do not get to do something because they did not know about it. So the more ways we tell people about it, the better. The more local residents we have actually participating in all these events interacting with the tourists, the events would be bigger and more successful. I wanted to find out more about this Promotional Materials Program and how this work interfaces with our Kaua'i Made Program, but it is a lot of good things happening, good for our islands, and the big festivals, of

course, support our producers having a venue to sell their products to the locals and tourists alike, and our small crafters, and just our producers in general. So keep up the good work, thank you.

Council Chair Furfaro: Thank you. Mr. Chang, did you want to add anything?

Mr. Chang: Just very briefly, Chair, thank you. I want to just say that the mission of the Hawai'i Tourism Authority, when it was founded some ten years ago, was to get local participation and to identify all of these wonderful things that island people could get to share. That was the whole point of the Hawai'i Tourism Authority being founded was let us bring in visitors during different times of the year. So chronological when you look, January, February, March, April, all the way on down, there were signature events that have now become solid signature events. And if you go into the events, it is very delightful to see that there are a lot of visitors at these events, and they mark down their calendars to specifically attend the events that they want to when they plan their vacation yearly. But I also want to say for the benefit of the kupuna, it keeps kupuna young because our local people can get out there and they have bonded; they have made friendships. A lot of these local people with their heart in giving, they invite all the visitors to come in, it is like family. Visitors invite them to go abroad and see their part, but what is also very encouraging is that the younger kids that practice hula or what have you, a lot of times that they get to really do their first hō'ike, if you will, is in front of big crowds, and those are the people that I believe realizes the importance of not only inspiring and perpetuating our culture, but they are able to share it. So we just have to be very, very supportive of these events. I think everybody knows that everything is obviously contingent on the revenue that we receive from our hotel tax base, but I am also going to be very, very supportive because I do think it is exciting and I do think that Kaua'i is the leader, ahead and above of cultural activities here statewide. Thank you, Mr. Chairman.

Council Chair Furfaro: (Inaudible) call for the vote. I hope very, very much to get a unanimous affirmative vote for this application. George, I want to thank you for your Economic Development budget worksheet. It was nice to have a piece like that in front of us, and again, Nalani, thank you for your focus in doing the right thing here for the right reasons. One more caution, again, as we go forward each year, make sure we commit to a program that we have credibility in our commitment and have a contingency plan here. So on that note, all those in favor of the approval, signify by saying aye.

The motion to approve C 2012-211 was then put, and unanimously carried.

Council Chair Furfaro: That is 7-0, Mr. Clerk? Very good. I would like to now go to legal documents. On the legal document item, it is C 2012-214. Thank you, Nalani. And I want to hold the County Attorney for comments at the end of the process here. So Members, please note that questions for Finance and Legal will be available after testimony.

There being no objections, C 2012-214 was taken out of order.

LEGAL DOCUMENT:

C 2012-214 Communication (07/04/2012) from the Director of Finance, recommending Council approval of the following:

- License agreement for 3.491 acres of land in Puhi (Lot 1540, Lihu'e, Kaua'i, Hawai'i) to be used by the Kaua'i Philippine Cultural Center (KPCC), a 501-C-3 nonprofit, as the location of a community center to

benefit and honor the history and cultures of the people of Kaua'i, and which license will assist the KPCC to leverage further future funding and grant assistance: Mr. Chang moved to approve C 2012-214, seconded by Ms. Yukimura.

Council Chair Furfaro: Mr. Clerk, do we have any written testimony?

RICKY WATANABE, County Clerk: Yes, we have several written testimonies and some speakers signed up for...

Council Chair Furfaro: How many speakers do we have signed up?

Mr. Watanabe: We have four signed up.

Council Chair Furfaro: Four signed up?

Mr. Watanabe: Yes.

Council Chair Furfaro: Very good. Would you make copies for the body on any written testimony that we have. I am going to suspend the rules. I have a motion to approve and a second. We will start with our first speaker.

There being no objections, the rules were suspended.

Council Chair Furfaro: Thank you very much. Welcome, when you introduce yourself for the record, we would like to start with that.

NORMA DOCTOR SPARKS: Good morning, my name is Norma Doctor Sparks, and I was born and raised on this island. I am a child of Kaua'i and I am also a child of a Filipino family, as well as being an American, and I wanted to support this important cultural situation that we have in terms of a community center, as well as providing a place for Filipinos. I have over 35 years of working with families, particularly with children, as directors for a number of statewide agencies here in Hawai'i and Santa Clara County in California, and recently Los Angeles County. My husband and I co-founded Families First Hawai'i Services because we want to ensure that children, particularly on Kaua'i, are provided services for their wellbeing. And I believe that a cultural center such as this will benefit children and families regardless of whether or not they are of Filipino ancestry or not. So I would encourage you to please consider this and to support this lease. Thank you.

Council Chair Furfaro: Thank you. One moment, let us see if there are any questions before I let you go. Any questions, Members? Seeing none, thank you very much for that testimony. Mr. Bulatao is next, did you say?

Mr. Watanabe: Yes.

Council Chair Furfaro: And who would be after Mr. Bulatao?

Mr. Watanabe: Followed by Millie Wellington.

Council Chair Furfaro: Thank you.

Mr. Watanabe: Jose Bulatao is representing himself as well as E Ola Mau Na Leo O Kekaha and West Kaua'i United Methodist Church.

Council Chair Furfaro: Thank you.

JOSE BULATAO, JR.: Good morning, Councilmembers.

Council Chair Furfaro: Good morning.

Mr. Bulatao: It is an honor and a privilege to be here to offer some testimony in support.

Council Chair Furfaro: You have to introduce yourself again, please Jose.

Mr. Bulatao: Jose Bulatao, Jr., Kekaha dinosaur. It is indeed an honor and a privilege to be here to offer some testimony in support of the Kaua'i Philippine Cultural Center because it is a proposal that has a uniqueness that is reflective of the island of Kaua'i. I am wearing a T-shirt and I need to turn around for you to look at what is in back of my T-shirt.

Mr. Chang: Mr. Bulatao, would you want to stand up so BC can get that for the viewing audience? Can you pause?

Mr. Bulatao: I will charge extra. That is okay.

Mr. Chang: No, you should because the viewing audience needs to see what your shirt says.

Mr. Bulatao: Okay, thank you. Thank you, Dickie.

Mr. Chang: Thank you.

Mr. Bulatao: As I was saying, this proposal, again, is so unique because it comes from one ethnic group to have us here on the island of Kaua'i consider the realm of possibilities in establishing a Kaua'i Philippine Cultural Center, and yet it goes one step further to say that this particular cultural center will be a place for all. And I need to impress this upon all of you and the people of the island of Kaua'i so that they know and understand where we are coming from and where we are headed. As was pointed out in earlier testimony this morning, the cultural aspect of our island's offering is so unique and so special, and Kaua'i is head above shoulders above any of the other islands in terms of how we do it, why we do it, and the manner and style in which we here on Kaua'i most especially have been able to bridge our cultural diversity so that we are truly a place for all. But I want to retain a focus on where this came from, and it came from the people in back of me in this room. The people who have taken the time to get together to demonstrate that unity and to demonstrate the solidarity of the Filipino group here on the island of Kaua'i to say that we want to do something not only for ourselves, but for all of the people of Kaua'i.

Council Chair Furfaro: On that note, Jose, that was your first three minutes. Please continue.

Mr. Bulatao: Thank you very much. And if given that opportunity with the support, which is again another unique aspect of what we are doing here on Kaua'i and that is to combine the collaborative efforts from the public sector, which are those of you in front of me, and the private sector, which are the people of the island of Kaua'i, so that we can come together to bring this concept into fruition and into actuality. And so I am here to ask you to support whatever it may be possible in the way of bringing public funds and public support with the

efforts taken by the Filipino community so that all cultural ethnicity can be celebrated here on the island of Kaua'i. Thank you very much.

Council Chair Furfaro: Thank you. Any questions? If not, thank you very much, Mr. Bulatao. Our next speaker, please.

Mr. Watanabe: Millie Wellington representing the Kaua'i Philippine Cultural Center, followed by Maryanne Kusaka.

MILLIE WELLINGTON: Good morning all of you, our County Councilmembers. My name is Millie Wellington from 'Ele'ele, a retired schoolteacher and a strong supporter/advocate for education and community service. I am here to show my strong support for your approval on a license agreement for approximately 3.49 acres of land in Lihu'e to be used as initiated by the members of the Kaua'i Philippine Cultural Center's Board of Directors. I have been inspired by this group of dedicated individuals who have worked with due diligence and with incredible amount of commitment to develop an easily accessible, centrally located facility designed in its envisioned programming to bring invaluable benefits to our island community. I see the center drawing a wide base of usage, benefiting our island as a beautiful and active place for residents and visitors, for young and old to gather. I see this as an action to approve this agreement as a gift to generations that follow and the Kaua'i Philippine Cultural Center (KPCC) is envisioned to provide opportunities that will honor, promote, and preserve the colorful and historical impacts of our pioneering sugar laborers. It will be a place that will document and showcase the challenges of our grandparents, our fathers and mothers, their sacrifices, their values, and how they were able to override the cultural differences to coexist and embrace the nature of our hosting Hawaiian culture. How many of us find it alarming to see that too many of our young have lost sight of the respectful core values that were passed down to us by example by our parents and leaders of the generations before us? The intention of the KPCC is to recapture the teaching of important values by those providing and promoting interaction of community to enrich and enhance the best characteristics of our cultural diversity. And again, I say that I am seeking your action to approve this item of communication to approve the license agreement, and I thank you for this opportunity to voice my support.

Council Chair Furfaro: Let us see if there are any questions for you. Questions? Mr. Chang.

Mr. Chang: Chairman, thank you. Auntie Millie, thank you for being here. I just wanted to say first of all on a note, I do not know if a lot of people know that you and Mr. Jose Bulatao are sister and brother, but you folks speak very eloquently. So I want to thank you for your teachership here. You recently just got back from a stint in Italy, I believe, with a dance troupe?

Ms. Wellington: Yes.

Mr. Chang: How difficult is it for places like halaus or dance troupes or people of that size? Is it hard to get places to practice?

Ms. Wellington: Well, I always see them looking for places that will be affordable for such exercise to practice, and I can see this center as being a place that is affordable and easily accessible to these kinds of groups of our youngsters and even any of the organizations that seek to promote our cultural diversity.

Mr. Chang: So is it your vision and is it the brain trust of the vision to have maybe areas that we can have multi-uses, like for example would it be big enough that various groups could be practicing simultaneously?

Ms. Wellington: I can tell you, Dickie, that when I have attended the meetings, how they have just really worked to envision a place that would have these kinds of opportunities that would have the best facilities of technical things like that, the space, and that it would be widely used for all kinds of activities that would promote education and cultural heritage. But I see a need because I myself, who has been involved in a lot of these kinds of activities, sometimes it is really hard to find a place that we can afford. Usually it might be a classroom or somebody's good graces that we could use the facility, but it is so important that we do have a place that is available for the wide base of our community.

Mr. Chang: Thank you, and thank you for your testimony.
Thank you, Chair.

Council Chair Furfaro: No other questions? Thank you very much for your testimony.

Ms. Wellington: You are welcome.

Council Chair Furfaro: Next speaker, please.

Mr. Watanabe: Maryanne Kusaka, representing herself.

MARYANNE KUSAKA: Good morning and aloha.

Council Chair Furfaro: Welcome, Mayor Kusaka.

Ms. Kusaka: Chair Furfaro, Councilmembers, it truly is an honor and a privilege for me this morning to testify on behalf of the Kaua'i Philippine Cultural Center bill that you have before you. Some time ago we approved, about 12 years ago, the allowance of the YMCA in that exact same area, land that was provided originally by Grove Farm for their development, and land that we saw fit to include the YMCA. Today you have before you a bill that will enhance that central area with another community organization that is willing to work hard to raise funds, to provide activity space and cultural space for another group of wonderful Kaua'i residents. This is an island of many cultures, and they will embrace all of them. I have been privileged...first of all I want to say this is the right thing to do. So I support it 100%. They have supported our community over many years 100%, and so it is time for us to return that to them and support them, that we acknowledge them. At any given time we have 19% to 23% of our population here on Kaua'i that is of Filipino descent.

A number of years ago as an educator, I noted the many friendships I endured and cultivated with the Filipino families as educator of their children, their number one issue is education for their children, and I see in this group continually over the many years that that has been their focus, education, and they continue to embrace the young in their racial group to learn their cultures, to learn their foods, to learn the way they respect others. This is a most respectful group in our community, and you will note that that comes from their fatherland, the honor they give to others, and the respect they give to their elders. And to this day, I am honored by them always, in the markets, on the playgrounds, or at the beaches or wherever I am, they are so respectful, and I know they are respectful to you because you carry leadership in the community. So I really honor them for that.

Some years ago, a delegation of 23 members of this community, as I was Mayor, led by Leo and Mercy Trinidad and the hospitality of the Bueno family in Laoag City welcomed us, and then Councilman Randal Valenciano and Council Chair Ron Kouchi joined us, and we traveled through the entire length of the island of Luzon, and we went from Manila to Pagudpud in the very northern tip of the Philippines. We established two sister cities and visited Ilocos Sur. We established Urdanetta in Pangasinan and also in Abra. And it was such an honor for us and for them, leaders went with me along the trip, and we were so well cared for, protected, and they were so thrilled that someone came from Hawai'i, from Kaua'i to honor them, and the people here were so thrilled that we would take the time, the energy, the funding to visit the Philippines and visit their place, their origin, their birthplace.

So I think because there are so many leaders in our community who are Filipinos, they are doctors and lawyers, and professional people that it is only right. They will work so hard. I know how hard they work and how loyal they are. They will work so hard to get this center up and running, you will see, in no time, and we are all going to help them. I am going to be behind them 100% as they have supported me and continue to do so.

So I ask for your support for our Filipino community so that their children can carry on the culture as they learn from their parents and want to pass on to their children and grandchildren. I thank you so much for this time, for your consideration, and I ask for your support. Thank you.

Council Chair Furfaro: Thank you, Mayor Kusaka. Let us see if we have any questions from Members for you. Vice Chair Yukimura.

Ms. Yukimura: Mayor Kusaka, thank you so much for your testimony. It is so apparent, your respect and aloha and admiration of the Filipino community. You have been so articulate about that. I actually just want to take this opportunity to thank you for your leadership in getting the swimming pool over there because it has been such a service to people and it was only because of your leadership that that was made possible. So I just want to take the time now to publicly thank you for that.

Ms. Kusaka: Thank you, JoAnn. Thank you for saying that. It is in the right place. It is like the Center will be in the right place because the children are there at the school, and it is a safe place for them to be. Thank you.

Council Chair Furfaro: Thank you, Mayor, for your testimony.

Ms. Kusaka: Thank you very much.

Council Chair Furfaro: That ends those that have signed up to testify. I would like to see a show of hands if there is anyone that would like to speak on this item before I go further. Since I see so many hands, please comply to my earlier

request to sign up. There are at least nine more hands that popped up. I am going to take a brief recess so I can collect your testimony and that is by request so that we can move forward.

There being no objections, the meeting was recessed at 11:34 a.m.

The meeting was called back to order at 11:44 a.m., and proceeded as follows:

Council Chair Furfaro: We are back in session. I would like to say that it is important that everyone who wanted to speak took advantage of my notice and have signed up. We have eight more speakers, at which time at the end I will be calling up the County Attorney and the Finance Director for Q&A as well. We will start with Mr. Randall Francisco. Randy, I will give you three minutes, give you a warning, and then extend a second three minutes to you. You have the floor, sir, and you start by introducing yourself.

There being no objections, the rules were suspended.

RANDALL FRANCISCO: Aloha and Mabuhay, Randy Francisco, Hanapēpē, Kaua'i. I have three testimonies, but I will be reading two because two of the individuals are unable to be here, and I have my own testimony, which I will stand on.

The first one is from Eddie Flores, Jr., President and CEO, L&L Franchise, Inc.; L&L Drive-In/L&L Hawaiian Barbecue. Honorable Councilmembers, I am writing this letter in support of the Kaua'i Philippine Cultural Center's proposed lease of Lot 1540, the land adjacent to the YMCA in Puhi, Kaua'i as the location of a community center to benefit and honor the history and cultures of the people of Kaua'i.

I, Eddie Flores, Jr., was one of the founders of the \$14.2 million Filipino Community Center (FilCom Center) in Waipahu, Hawai'i. From its inception, I was told it could never be built. It took several years of dreaming, planning, fundraising, and hard work, and in 2002 the Filipinos' dream center was built. The FilCom Center is now the largest Filipino community center outside of the Philippines, a lifelong dream of the Filipino community in Hawai'i.

Not only does the FilCom Center serve as the pride and joy of the Filipino community, it is now home to businesses, health clinic, community groups, and recreational activities for people in and around Waipahu and throughout Hawai'i. Most importantly, the FilCom Center also helped in the economic revitalization of Waipahu, a former sugar cane plantation town. Businesses around the FilCom Center such as Fuji Film and Frito Lay have now called Waipahu their home.

Hence, I give the proposed community project of the Kaua'i Philippine Cultural Center my fullest support. I know that the Kaua'i people will benefit greatly from it. Please feel free to contact me if I can be of any further assistance. That is testimony number one from Eddie Flores.

Number two is from Rose Churma, President and Chief Operating Officer, The Filipino Community Center, Inc. Dear Chair Furfaro and Councilmembers, we, the members of the Filipino Community Center, Inc., urge the Kaua'i County Council to approve the license agreement that will enable the Kaua'i Philippine Cultural Center to build a community center on 3.491 acres of land referred to as Lot 1540 in Puhi, Kaua'i.

The community center will benefit and honor the history and culture of the people of Kaua'i, particularly those of Filipino ancestry. The license agreement will also assist the KPCC to leverage further future funding and grant assistance for the center's construction. The creation of this community center will benefit the multi-cultural population of Kaua'i and encourage its residents to share and appreciate one another's history, traditions, and culture. The sharing establishes vibrant communities that benefit the entire County of Kaua'i.

Thank you for allowing us the opportunity to support the efforts of the Filipino community in Kaua'i to establish their own center. Since we built O'ahu's FilCom Center 10 years ago, it has served as a symbol of our community's achievements and a tangible contribution to the growth and development of the State of Hawai'i. The community center planned for Kaua'i will do the same and will benefit not only the County but the entire State of Hawai'i. Mabuhay and Aloha, Rose Cruz Churma, President and COO, The Filipino Community Center, Inc.

Council Chair Furfaro: Thank you, Randall. Any questions for Mr. Francisco? Do we have copies of that testimony that was read to us? We do? Thank you very much, Randall.

Mr. Francisco: Thank you.

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: The next speaker is Evelyn Basnillio, followed by Paul Kyno.

EVELYN BASNILLIO: Thank you. My name is Evelyn Basnillio from Puhi. I am here on behalf of the Kaua'i Visayan Club. I am here to share with you that our organization fully supports this worthy project. This year the Kaua'i Visayan Club will be holding its International Costume Ball, a very festive event. It is a biennial event, and the beneficiary for this year will be the Kaua'i Philippine Cultural Center. This project is more than a place for all. This will be a place that signifies who we are, and it is a place we call home, and it is a simple dream that will become a reality. With this I wanted to thank you for the opportunity. Thank you.

Council Chair Furfaro: Members, you have no question? Next speaker.

Ms. Fountain-Tanigawa: The next speaker is Paul Kyno, followed by Ken Taylor.

PAUL KYNO: Good morning, Mr. Chair and Councilmembers. Paul Kyno. I do not have a prepared statement, but I am in full support of the Filipino Cultural Center, and the County giving the land to make that a reality. I have been on island now for 30 years and most of those years, some of my best friends have been from the Filipino community. They have accepted me as family and brother, and friend, and they are a very generous and caring people, and the whole theme of this cultural center is "the place for all" would be for everybody, and as you can see I am not of Filipino descent, but I feel like I have. I have been given an honorary name "Pablo Aquino" by my friends in the Filipino community. I just think that this is really the way to go. This will be a great thing for the island as a whole, not just the Filipino community. Thank you.

Council Chair Furfaro: Thank you, Paul. Let me see if there are any questions for Paul. Thank you, Paul. Next speaker please.

Ms. Fountain-Tanigawa: The next speaker is Ken Taylor, followed by Mary Jean Odo.

KEN TAYLOR: Chair and Members of the Council, my name is Ken Taylor. I am here in support of the Filipino Cultural Center. As you know I have only been on the island about eight years, but have come to know a lot of the fine people in the Filipino community. I am certainly supportive of what they are taking on here. When I first heard of their plans, I said oh my, this is a big, big project. But if there is any community on the island...I know from my experience of knowing a lot of people in the community that they can get it done and they will get it done. I think they add a lot to the overall wellbeing of this island, and I am really excited to see them taking on this exciting big project, but I think in the end, not only will the Filipino community be rewarded, but the whole island will be uplifted tremendously by having this facility. So I am looking forward to their progress and I hope that each and every one of you will find it in your hearts to help move the project forward by approving this activity today. Thank you.

Council Chair Furfaro: Thank you, Ken. Next speaker please.

Ms. Fountain-Tanigawa: Next speaker is Mary Jean Odo, followed by Lonnie Sykos.

MABEL JEAN ODO: Good morning, Chair and Members of the Council. I guess I did not write my name very clearly on that. It is not Mary Jean, it is Mabel Jean, and the reason I have it in parentheses is because I do not go by Mabel. I do not know who that person is. I go by Jean or Jeanie, and there is a long history to why I do not go by Mabel, and it would take me three minutes to talk about it, so I am not going to tell the history on that. I just wanted to also say that I am a Bulatao. My brother Jose and Millie is my sister, and I am usually the demure and quiet one. But it has been pointed out that although I am demure, when I believe in something I can become very assertive and very verbal. I just wanted to say I do support the testimonies of my brother and my sister. I retired 11 years ago from the Department of Education. I had only one week of retirement when they called me back and that has been, as I said, 11 years ago, and I am enjoying what I am doing, servicing the schools from Kekaha to Hanalei, and so I am still working. I also belong to the Hawai'i Health State System Association, so I travel a lot and I hear from all of my fellow countrymen about what is happening, we do so much, and what more can we do or give to the community. I do not want to say too much because I do not want to hear that bell, but those in back of me...when Millie says about pioneers, that is our father and mother, and their fathers and mothers, and they paved the way, and we have forged so many years. We are older than all of you, and so we know what we did and where we are coming from, and the focal point will be the KPCC. And so we thank you for the support that we have heard from you, and we would like that to continue, and so please may we see that come forward. I think that is all I have to say. Thank you.

Council Chair Furfaro: Let me see if there are any questions. Questions, Members? No. Thank you very much for being here.

Ms. Odo: You are welcome.

Council Chair Furfaro: Lonnie?

Ms. Fountain-Tanigawa: Chair, the next speaker is Lonnie Sykos, and he will be followed by Glenn Mickens.

Council Chair Furfaro: Thank you.

LONNIE SYKOS: For the record, Lonnie Sykos, Mabuhay. This is a great project, but I will reiterate my previous point that a master plan by the County for economic development would be a good thing. I am not promoting any of these ideas, but there will most likely be a kitchen bill, which would then be a certified kitchen, which would create the possibility of opportunity. They are not promoting this, but there could be a music and video facility that our local musicians and kids, I am thinking of mostly, could go make professional quality music recordings or do their videos. The movie industry, if that was viable, they would be here and build it themselves. I am not talking about supporting Hollywood with this, but there are all kinds of things that could be incorporated into this, especially because the community is being all inclusive, and so I am simply saying the all inclusivity could grow. So I think it is a great idea. The County of Maui built a community center, and they did choose to invest in a world class state-of-the-art theater, which both Tony Bennett and Harry Belafonte said that they had performed in the greatest venues on the planet and none was better acoustically than the facility on Maui. The County contracted Kamaka Emmsley to build over my neighbor in Hāna, over 600 feet of stonewall based on an acoustical engineering plan, and now they have...Santana comes every two years, performs outdoors, and every outdoor seat is better than sitting in an auditorium. It is an incredible outdoor acoustics. Kamaka also went to Washington, D.C. and built a stone wall on the National Mall as part of the summer activities and festivities that Congress underwrites. And so there are huge, huge opportunities here, and I simply support them and support the County's involvement in seeking the biggest bang out of all our bucks here. Thank you very much.

Council Chair Furfaro: Questions, Members? Thank you. You have a question? Go ahead.

Mr. Chang: Can I ask you, are you talking about the Maui Arts and Cultural Center?

Mr. Sykos: Yes.

Mr. Chang: So can you explain to the Councilmembers and the viewing audience just to refresh our memories, outside of the balcony and outside of the stages and the theater seating, what...

Mr. Sykos: Correct, for the people that have not been there, the basic footprint is there are two buildings that are connected. One of them has an auditorium and stage, and so it is tiered seating. It looks like a little miniature opera house, and it has extraordinary acoustics. Outside when they designed the wall surfaces and the roofs based on the prevailing trade winds and all these things, they figured out how to use the building structure to act like the shell acts at the Waikiki Shell, that it contains and focuses the sound, but it does not cause echoes. And they designed the slope on the back wall to act acoustically, I guess to like reflect sound but also not to cause echoes. And so it is like...it sounds better than my music equipment at home to go see a live performance outside there.

Mr. Chang: So do they have breakout rooms like with media centers?

Mr. Sykos: Yes, the second building has an art gallery in it, and there are also rooms there for meetings and things, and the property is immediately adjacent to the community college. So through various interactions, if

you needed more meeting space, you could get more at the community college when it was not being operated, is my understanding. But they do not have like a huge convention hall, but they do have lots of meetings, lots of cultural events; fundraising events are held there.

Mr. Chang: I would encourage you, after this meeting, to speak to some of the leaders of the community because you can share the mana'o, but they can also give you their footprint and their plan as to what they are talking about because there may be similarities. Are you a friend with Art Bento at the Maui Arts and Cultural Center?

Mr. Sykos: I know who he is, but I would not claim that.

Mr. Chang: Because that might be a nice excursion for one or two to take a trip out to...

Mr. Sykos: And like I said, when the County got together and did this, we wanted to get the music and the performing arts venue specifically, and so that is not the driver for this, which is why I am saying these are ideas, not my suggestion for what we do.

Mr. Chang: And Lonnie, I would encourage, I see some nodding of the heads, if you can chat with them.

Mr. Sykos: Okay.

Mr. Bynum: Because I think a lot of the things we are talking about, they already have that in their game plan.

Mr. Sykos: Art is a great guy. For anybody to contact him, he would most likely be very open with the pros and cons that they have learned through the years of operating the facility.

Mr. Chang: Thank you. Chairman, thank you. Thanks, Lonnie.

Council Chair Furfaro: More questions? If not, Lonnie, thank you very much.

Mr. Sykos: Thank you very much.

Council Chair Furfaro: The next speaker is Glenn Mickens.

GLENN MICKENS: Good afternoon, Jay and Councilmembers. It is afternoon. I just have a brief statement to make. I support approval of this cultural center because as Jose said, it will benefit all of Kaua'i and not just the Filipino community. I do not know the amount of public funds, if any, that will be needed for this project, but as long as the center will benefit everyone, I definitely approve of it. I will also thank Grove Farm for their cooperation in letting the Filipino community obtain the land for this project. I presume that is where it is coming from. For me, Pacquiao is still the world champ even though a serious mistake was made in his last fight to take the championship away from him, okay. Thank you, Jay.

Council Chair Furfaro: Thank you. Joe Rosa? Joe is our last speaker, and this is my last call for anyone who wants to sign up to testify because I will be calling up the County Attorney and the Finance Director after that. Joe, you have the floor, please introduce yourself.

JOE ROSA: Good afternoon, Members of the Council. For the record Joe Rosa. I am here in behalf, to speak for the proposed Filipino Cultural Center to be established and built in Puhi. The reason I am here to give them some support is I have known the Filipinos. I am 80 years old, and I have known some of them from the first time that they came in the 1900s, 1920s and in 1946 when the Sakada movement came back after World World II. Now these people came as laborers for eight sugar plantations at that time with futures ahead for them where they could come and better themselves and their families. A great majority of them came as bachelors. So they had housing in each camp in the various plantations. They used to call them the bull pens for the bachelors. Some of them were fortunate, they brought their families later on. They deserve something of recognition. We had the first Filipino Mayor in America in the late Eduardo Malapit. We had Councilman George Pascua, another Filipino, and there have been various other Filipinos prominent here on this island. So they blended into the ethnic group here. Right now I think if they are not the leading ethnic majority here on Kaua'i, they are nearly the most people in their ethnic group. They are a strong, solidified group of people. They have their Visayan Club; they have the Ilokano Club. They perpetuate their culture. They have their terno balls, whatever. They are a close knit group and you think that they have a small family tree, but it is spread out as big as a banyan, and they keep good control of their relatives. They go as far deep as their third cousins and fourth cousins and so forth. So I think that it is high time that they deserve something in recognition like a good cultural center and you can perpetuate their arts also further because I follow the Filipinos. I used to see them play volleyball in the plantation camp. Where the Lihu'e Gardens is, they had volleyball tournaments. They had sipa sipa, that is a bamboo ball, that they would kick from behind one another, and we used to follow it because they had a lot of goodies too to be eaten over there. So they have their arts; they have their culture, and I think it is high time they have one. So I am all for it and I wish them all the success with the building and they have a good use of it, and I know they will because they are a strong social group. I thank you.

Council Chair Furfaro: Thank you. On that note, there is no one else to testify. I would like to ask that the County Attorney and the Finance Director make themselves available to the Council. Al, why do you not go ahead and introduce yourself first. I assume Wally is somewhere behind you?

ALFRED B. CASTILLO, JR., County Attorney: Yes, Council Chair, Councilmembers, good afternoon. Before Wally comes in, I would like...Al Castillo, County Attorney. I would just like to say that it is an honor to be amongst the many Filipino community leaders that are here in this room. It is quite an impressive group when you know who they are and the backgrounds that they have and what they have been able to accomplish for the entire community of Kaua'i. They are the pioneers and I am glad that they are here. So anyway, welcome. Just one clarification I would like to add is that Mr. Glenn Mickens, who he mentioned was no other than Manny "Pacman" Pacquiao. He said it a little different.

Council Chair Furfaro: Well thank you for the phonetic clarification on that. Wally, would you introduce yourself, and then I will pose some questions to you folks.

WALLACE G. REZENTES, JR., Director of Finance: Good morning, Wally Rezentes, Jr., Director of Finance, for the record.

Council Chair Furfaro: Gentlemen, I am going to give you an opportunity here for the Council that may have questions in particular relating to Lot 1540, relating to potential license agreements, any easement questions, and of course, is there any consideration on alternative sites where that property at one point was considered for an expansion of the Park System. So on that note, I am going to open the floor to questions relating to those particulars to the Members. If you can hold on just a second, is there anyone here I can ask, were any questions sent to you folks pre-meeting here?

Mr. Rezentes: I believe some of us received questions this morning.

Council Chair Furfaro: So Members, those of you that might have posed questions, this is your opportunity. Did you submit questions to them? Okay.

Mr. Castillo: Council Chair, I would just like to add that yes, we did receive questions and I did review the answers to the questions. There may be some...I reviewed the contract itself, but there may be some technical questions that Ian Jung would be able to answer. Unfortunately, he is not available today. He is attending to a family situation.

Council Chair Furfaro: Let us see if the question is to the point that it has to be referenced to Ian, but at least let us get the questions out on the table.

Mr. Castillo: Okay.

Council Chair Furfaro: So KipuKai, you have the floor.

Mr. Kualii'i: Thank you, Mr. Chair, and thank you both for being here. I am in full support of the concept. I just thought that since this was coming before the Council, we should have a little bit more basic information, and one of the basic questions I asked and it is reasonable that you need more time to get the answer, but I would have hoped that it was part of the original submission as far as basic information, and it is just what is the estimated market value of this 3.49-acre parcel so that the County can be clear of what we are gifting to a certain degree. That was one of the basic questions, and then the other is just kind of a process thing where I want to understand what is the reasoning between and maybe it is just semantics, why is it called a license agreement and not a lease. It is a long-term lease, but it has a beginning and an end with the right to re-enter, I guess. And the other one, why 99 years and not some other amount like 30 years to revisit. And then lastly, along the lines of having a sense of what other types of arrangements has the County entered into with other organizations. I do not believe this is the first of its kind or maybe it is. I think there was a brief response or some information about the YMCA, and then there is a canoe club historic society, I was told, but just in general, not the specifics. I would just kind of want all that information to be part of this consideration. Thank you.

Council Chair Furfaro: So if I could summarize that, the question from the Members, starting with is there an appraised value of the 3.49 parcel that we are talking about entering a lease agreement in. Other than the Tax Office, do we have a number you could share with us?

Mr. Rezentes: We do not have a number at this time. The parcel includes...it is a larger parcel of which a portion, the 3.49 acres, will be licensed to this nonprofit. This morning I asked Real Property Assessment to work on an estimated value that they would need to separate from the YMCA piece and the improvements on the YMCA piece.

Council Chair Furfaro: Mr. Castillo, are you able to answer the Councilmember's question, the lease agreement versus the license agreement?

Mr. Castillo: All my understanding is this is an agreement, but I do not know what is the legal difference between the license and a lease, and how does that work with this nonprofit. So right now I do not know why this term was used and I can get that information for you later.

Council Chair Furfaro: Is that something you can answer the question from the Councilmember on regarding maybe a visit with Mr. Jung?

Mr. Castillo: Yes, we got his questions and we asked for some time to answer all of the questions that you posed. But in terms of the mechanics of this agreement, I did not see it as there being a difference between a license or a lease.

Council Chair Furfaro: Wally, to your knowledge, I would assume we have an understanding with this facility as being leased, that your department has access in the agreement to review their financial standing?

Mr. Rezentes: I believe there is some language along those lines in the license, where we can...

Council Chair Furfaro: I see a Member shaking a head, I just want to ask the question because I know there have been community centers that have run into some financial...

Mr. Rezentes: And how much do we want to get involved with their nonprofit affairs? I know that when the County Attorney's Office drafted the license, they did look at the 501(c)(3) document that was approved by the IRS, and specifically within that document, the purposes and the intentions of what the 501(c)(3) was approved for. I know that they had reviewed that and of course the compliancy for the nonprofit, they are supposed to basically follow the lines of what the 501(c)(3) was approved for and created for.

Council Chair Furfaro: So I guess for clarity there, you can respond to that question. So we have a global understanding of what we can request.

Mr. Rezentes: Again, I have had a number of discussions with some of the leaders and we worked together to come to what is in front of you. Speaking to the piece of 99 versus 50 years, we did have 50 years initially and based on our discussions and getting a better understanding of the magnitude of the project and the amount of...just the sheer magnitude of the project, there is going to be infrastructure there that will likely last much longer than a 30-year, 40-, 50-year term. Anyway that is the intention of the nonprofit to build such a facility that would have that type of useful life.

Council Chair Furfaro: Now, I would think from a building standpoint and to have fair disclosure to everyone, what would be the depreciation schedule for the nonprofit? Could it go as long as 65 years?

Mr. Rezentes: I do not have that information.

Council Chair Furfaro: Okay, well I fully support what we are attempting to do here, but I think it is very realistic for us to have all of these facts in front of us to move forward. Could you resolve this for us in a week? Two weeks?

Mr. Rezentes: You mean as far as providing some answers to these questions?

Council Chair Furfaro: Yes.

Mr. Rezentes: Sure, we should be able to provide that to you within a couple of weeks, sure.

Council Chair Furfaro: Okay, so you can provide it to us in two weeks?

Mr. Rezentes: Sure.

Council Chair Furfaro: Okay, very good, and again, I fully support what is going on here, but the Council needs to make sure...we have asked the questions to do our due diligence. Could you submit your questions, Mr. Kuali'i, in writing?

Mr. Kuali'i: Yes, I will do that, Mr. Chair, and I do want to echo what you just said is that I fully support the Filipino community and the efforts and all the opportunity and potential that this project represents and then just felt that it was our fiduciary responsibility to have all this information up front, and I would have hoped that the Administration would have seen that and provided it and then we did not have to actually ask for it, but it is the basic information and we can get that in two weeks, that would be great. Thank you, Mr. Chair.

Council Chair Furfaro: So I am going to put that burden on the County Attorney and the Finance Department. I want to turn it around urgently if we can live with your commitment on the two weeks because this is an outstanding opportunity for us to have the facility available to the County through this stewardship provided by the Filipino community, but we need to do that due diligence. Vice Chair, did you want to be recognized? Did you have anything more to add to the questions I put there? Okay, go ahead.

Ms. Yukimura: Yes, I want to say, too, that I am very excited about this vision of the Kaua'i Philippine Cultural Center, and I think the theme of "A Place for All" just fits in terms of...the Filipino community has been such a model of an ethnic group that is so proud of its culture and wants to perpetuate and sustain it, and at the same time embraces the larger community. As a person of Japanese ancestry, I was so moved by how the Filipino community organized to raise money not just for relief from typhoons in the Philippines, but also when the Fukushima earthquake and tidal wave happened, how they put their heart and soul into raising money for that effort too. It was just an example of how inclusive and embracing the community is. So this cultural center makes so much sense in terms of this wonderful gift to the larger community that also perpetuates the Filipino culture and history. But I also think that we have such a fiduciary duty in crafting an agreement that is going to last for 99 years, and I have so much confidence in the existing leadership which is so entrepreneurial in doing good planning and builds such confidence in us that the project will be done well. But in 50 years, in 25/30 years, we still need a guiding document for what the intention is here, and because this is sort of breaking new ground in terms of a public-private partnership,

there has to be some thought about this document. For example, part of the vision "A Place for All" makes me think of the Puhi community and the fact that it does not have a neighborhood center like a lot of our other communities, and I talked to Lester and Sonya yesterday and I really appreciate the time they gave. So this center will be more than a neighborhood center I am sure, but it also has the possibilities of performing some of the functions of the center for this growing and wonderful community in Puhi. So it seems to me some of that intention might be articulated in the document to know that it was one of the...part of the vision because that is part of our public responsibility and also gives us some rationale for helping too. So I would like to have a little bit more thought in terms of the vision that is articulated in this guiding document.

And I also think it is important and I do not see it in there, the requirement that at least the books be subject to inspection from the County government partly because, like I said I do not have any questions about this leadership today, but we know that leadership of organizations waxes and wanes, and it is just a standard provision I think is important for the County to have. So some of that because I think this is a new format, and I think it is a wonderful format. We have to have more public-private partnerships, but there has to be some thought for this document that is going to be a guide. So I would like to have Finance and legal take a look at that in terms of the definition.

And my last concern is that parcel has been slated to the kids of Kaua'i, including Jared Centennial and some Filipino kids as the skateboard park. And we need to hear from the Administration as to where, because I have a sense that this piece is destined to be for the cultural center, but we need to know where the skateboard park will now be located because that is part of our promise to the kids. I know that the Administration has been working with them, and we just need to know that issue will be taken care of as well.

Council Chair Furfaro: Before I go any further, there are three that I just acknowledged that sent in written questions, and I really want to let you know I want to vote on this relatively soon, within two weeks. So I want you to take the questions and the urgency that I posed because it is also tied to a grant from the State that will really leverage this deal to get other contributions. So we need to move with some urgency, and I think all of those can be worked out, but that due diligence is the responsibility of both the Council and the Administration jointly, so please move with some urgency. Now I will go to Councilmembers who did not submit written questions, starting with Mr. Chang.

Mr. Chang: Chairman, thank you, I got my questions answered, thank you.

Council Chair Furfaro: Mr. Rapozo was next.

Mr. Rapozo: Thank you. I guess the question is more toward the type of document. I do not know if you, Al, can answer it, but "indenture of license," I do not know what that is. In the parties to the document, it states "lessor" and "lessee," and there are some other grammatical stuff that I have highlighted in here, commas and so forth, that I will give this to you so you can take it back. I am not sure who drafted this.

Council Chair Furfaro: Excuse me, Mel. I want to make sure that we submit one set of questions, if I can, so it is not fractured all over the place. When we are back in two weeks, we can go through that. So any real direct questions you have on the draft contract, please make sure the staff knows a particular question.

Mr. Rapozo: Okay. Mine is just again highlighted on this document, which I will give to you or to the staff, and they can send it over.

Council Chair Furfaro: Thank you.

Mr. Rapozo: The one that I am really curious about and I am not sure, on page seven of the contract where it talks about the...it is a condemnation part. It mentions something that I have never seen before, and it says, "Licensee may appear and defend its interest in any condemnation proceedings and make claim in its own name to the condemning authority for any value attributable to its licensed interest and for the value of any real and personal property of any kind belonging to the Licensee." What is that?

Mr. Castillo: I have to look at that. I did read that.

Mr. Rapozo: Okay, and that, I guess, the only question is whatever is approved at this body is what is approved, right? Once we approve it here it cannot go back across the street and be amended, correct?

Mr. Castillo: That is a spelling error.

Mr. Rapozo: Oh, okay, okay. I guess I want to make sure that before it comes back across that it is proofed so that...because otherwise again if we approve it here, Al, you folks are not able to change anything until it comes back right?

Mr. Castillo: That is correct.

Mr. Rapozo: Okay, so I will submit this, just my highlighted questions and then it can be fixed up and brought back. But outside of that, the grammatical stuff, I am prepared to vote. Thank you.

Council Chair Furfaro: Again staff, I want to make sure you understand the urgency that we focus on getting the questions over to the County Attorney and the Finance Director, and we plan to have this on the agenda with our questions answered in two weeks. Go ahead.

Ms. Nakamura: So I also had a chance to look at the license agreement. I had the same question, why a license agreement and not a lease, and if the nonprofit goes for financing, is it not harder to get financing if it is a license versus a lease? I am just concerned about that issue.

I am also wanting to on page eight of the license agreement, 22-A, I think there is a...that might be another typo because it says that the "Licensee shall insure." I do not think we want to put that onus on the licensee. I think it should be "ensure" that they get all the insurance.

Mr. Castillo: Yes.

Ms. Nakamura: Not to insure themselves, that would be difficult to do. There is also on 22-B, discussion about public usage of the project, and it talks about how the center "shall be open to the public, subject to reasonable hours." But I think because the nonprofit will be operating the facility, should it not also include "subject to reasonable fees" as well. So I just wanted to have you take a look at that. I do not think the public can just go and show up and use the facility.

I also had a question about road access, whether there is an existing access to the site. I saw the map here and I was not sure whether Easement 486 is the road easement. It is? And then who will build that easement? Will that be then the licensee's responsibility? And is that articulated in the agreement?

Mr. Rezendes: I do not believe it is articulated, but that is the intention and that is what I understand, that this will be part of their build out package.

Council Chair Furfaro: So that is an expanded version of my earlier question about the easement agreement. So there are members here at the table that want to urgently move on this. But I do think some of the questions about due diligence that have been posed to you need to get a high degree of attention, and we need to have this back for a vote on the body with those answers, and so please focus in on this and we will get the questions to you directly. I do not think there is much difference on a lease agreement and a license agreement, but be prepared for that question as we have a license agreement as it deals with this land. So please get a hold of Mr. Jung. I do not think there is that much of a difference. Are there any more questions here before we go on lunch break? Mr. Bynum.

Mr. Bynum: I just want to echo what I heard before that I am very supportive of this concept. I think it is clear from the questions you heard from members that we all take our responsibility really seriously, and I said at the break that there may be a deferral in order for us. And often I have seen here at the Council that our questions are helpful and end up with a better end product. My own lay guess at license versus lease is that it has these conditions and covenants as a portion of it about public usage, but I really think Ms. Nakamura's question about does it impact the financing, those nuances, is a really important question.

Some of the questions I will just put on the table and they may not be about this agreement, which is long-term, I have seen a number of community groups over the past trying to do similar things and when I saw this group, I said, this is a group that can make it happen. So I want to echo the leadership and the commitment of this group. This is the right group. Other groups have tried to do a place for all and have run into obstacles. But the tenacity of this leadership group, I think, is a winning combination.

But frankly I had hoped we were going to be discussing a 15-acre parcel or more because one of the needs of this community is that larger parcel for activities like the Farm Fair. We hold the Farm Fair at Vidinha now. Without the Grove Farm parking and their kōkua, we could not do it there. Eventually I assume Grove Farm will develop that property. I heard today that there is some discussion about adjacent parcels to this and I would encourage that.

And then just logistical questions about if you do large events there, and usually we study these things in advance before making commitments about traffic considerations and noise and can those be mitigated, that kind of questions.

I am almost reluctant to ask the next question, but I will. Does something of this scope require an Environmental Assessment be done? I do not know the answer to that, but those are the kind of questions that come to my mind.

But I do share the Chair's sense of urgency about this. I thought there might be members of the public who would be disappointed if we had even a two-week deferral, but getting clarity on these is us doing our due diligence. Thank you very much.

Council Chair Furfaro: Okay, Members, and Al, I want to say to you that my understanding, as I was the landlord for many concessions within a hotel complex, a license is easier to revoke than a lease, and I want to make sure we understand that terminology. A lease is tied to a period of years going through. A license deals with having certain protective covenants in the document that if they are violated, you can revoke the license. That is how I understand it as a hotelman. So on that note, I would like to say that we are going to move to defer this item for two weeks, and so a lot of attention needs to go to this.

There being no objection the meeting was called back to order, and proceeded as follows:

Ms. Nakamura moved to defer C 2012-114, seconded by Mr. Chang, and unanimously carried.

Council Chair Furfaro: We are breaking for lunch until 1:45 p.m.

There being no objections, the meeting was recessed at 12:37 p.m.

The meeting was called back to order at 2:02 p.m., and proceeded as follows:

Mr. Bynum was noted excused from the meeting.

Council Chair Furfaro: Because I will be making a presentation for all purposes and intent, I would like to receive this item then.

C 2012-209 Communication (06/13/2012) from the Director of Finance, transmitting the Condition of the County Treasury Statement quarterly report as of May 14, 2012: Ms. Yukimura moved to receive C 2012-209 for the record, seconded by Mr. Chang, and unanimously carried.

Ms. Fountain-Tanigawa: Council Chair, just for clarification, that would be to receive communication 2012-209?

Council Chair Furfaro: That is what we did.

Ms. Fountain-Tanigawa: We just did not read the number.

Council Chair Furfaro: Okay, you did not read the number, I am sorry. I apologize for getting ahead of myself. But I did make the motion to receive, right, very good.

I would like to go on to the smoking bill because my presentation will take a while and I would like to have that read as I see members in the audience that are here for this bill.

There being no objections, Bill No. 2437, Draft 1 was taken out of order.

BILLS FOR SECOND READING:

Bill No. 2437, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND SECTION 19-1.3 AND SECTION 19-1.4 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION

Council Chair Furfaro: Thank you very much. May I see a show of hands of people that are here to testify on this bill? Okay, I am going to start with you in the back, if you would like to come up. Tessie?

Excuse me, is Mr. Bynum going to be here for this bill? So he is not coming back. Let the record show that Mr. Bynum has an excused absence for the rest of the day. Tessie, the floor is yours, if you could introduce yourself.

There being no objections, the rules were suspended.

THERESITA "TESSIE" KINNAMAN: Thank you, Council Chair, Tessie Kinnaman for the record. I would like to reiterate, again, that I am opposed to Bill 2437, one reason being that I feel that it is very discriminatory, and it is infringing on our liberties and freedoms. I would like the Council to consider an amendment to Article 1, Section 19-1.2 Application and Scope, and it reads, "The Article shall apply to all County Parks, neighborhood centers, swimming pools, tennis courts, athletic fields, stadiums, or recreational areas, excluding the County Municipal Golf Course and the Kaua'i Memorial Convention Hall." I would like to ask for the same exemption for the Kona District of Kaua'i, if any of the Councilmembers could propose that on the floor, and the Kona District of Kaua'i would be the Kōloa District to Polihale. Since a park, is a park, is a park, is a park, I do not care how you recreate, and I feel that section in the ordinance is discriminatory.

The other amendments that I think should work is that smoking or use of tobacco under the age of 18 utilizing parks should comply with the following: that the tobacco-free Coalition members be authorized by the Director, being the Parks & Recreation Director, and that he direct them that they have the authority to issue citations and charges for any violations of the provision of Section 19-1.4 and that the Director should also authorize the Coalition to establish a program whereby the Coalition shall provide and fund all paperwork necessary for citations, charges, prosecution through Teen Court. The offenders shall reimburse the Coalition for all incurred costs to maintain the said program. And then that smoking areas for 18 and above be not less than 20 feet from pavilions, restrooms, and other people.

So having said that, I would like to reiterate Judge...from the San Francisco Federal United States Appeals Court, Judge Stephen Reinhardt, "The Bill of Rights is intended to protect the rights of those in the minority against the temporary passions of a majority which might wish to limit their freedoms or liberties." Thank you very much.

Council Chair Furfaro: Okay, Tessie, you have only used three minutes of your time. Do you want to speak more on this bill or shall I open it to questions.

Ms. Kinnaman: Questions is fine.

Council Chair Furfaro: Members, questions for the speaker? Vice Chair Yukimura.

Ms. Yukimura: Tessie, you are saying that you believe that the right to smoke is protected by the Bill of Rights?

Ms. Kinnaman: It is protected by my freedoms and liberties. The Bill of Rights covers a lot of...it is not only rights. It is freedoms, liberties...I do not think you should be legislating how people behave.

Ms. Yukimura: Even though it harms others?

Ms. Kinnaman: There are a lot of harmful things in this world and tobacco is one of them.

Ms. Yukimura: Yes, well harming oneself is...

Ms. Kinnaman: You cannot be...I do not think you should use that as a top priority, regardless of statistics or whatever, because there are a lot of other things like barbecuing at the beach. Does the smoke dissipate as fast as the cigarette smoke?

Ms. Yukimura: So you are saying that if we cannot regulate every harm, we should not regulate any harm?

Ms. Kinnaman: There are certain things you can regulate, but I do not think smoking should be one of them.

Ms. Yukimura: Okay.

Ms. Kinnaman: Because tobacco products are a legal product used in the United States, so how?

Ms. Yukimura: Well, it is not legal for 18 and under or is it 21 and under?

Ms. Kinnaman: Below the age of 18.

Ms. Yukimura: Right, so it is legal in some circumstances, but not in others.

Ms. Kinnaman: The purpose of this bill is to protect the keiki of Kaua'i. That is the purpose of this bill.

Ms. Yukimura: I think it is to protect everyone, not jus...

Ms. Kinnaman: The purpose, if you look on the bill at the bottom...

Council Chair Furfaro: It says that in the body.

Ms. Yukimura: I think keiki are the top priority, but I do not know if they are the only ones.

Ms. Nakamura: Page one at the very bottom.

Ms. Yukimura: Yes, they are acutely vulnerable.

Ms. Kinnaman: I tell you I have three children and I smoked around them for...they are still alive.

Ms. Yukimura: Okay, thank you.

Ms. Kinnaman: You are welcome.

Council Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: The question was asked about if it was legal for a person to smoke under the age of 18 or 21. What was your impression? What is your impression?

Ms. Kinnaman: To smoke legally? 18 and above.

Mr. Rapozo: You know that the law does not address smoking? It only addresses the sale. There is no law that prohibits a 15-year-old from smoking. It is not like alcohol; it is not like liquor. You cannot sell it to anyone under the age of 18, but there is no law in our book that says you cannot smoke. That is a stupid law, but it is the law. So I just wanted to clarify that. Many people are under the impression you cannot smoke under the age of 18. The only law regarding tobacco is you cannot sell it. You cannot sell to a person that is under 18. That is why when they do the sting operations, the only people that get arrested are the people that sell it. So I just wanted to clarify that.

Ms. Kinnaman: When they do the stings, okay.

Mr. Rapozo: Thank you.

Ms. Kinnaman: I thought that was a law, so I misspoke.

Mr. Rapozo: I think everybody does, everybody does.

Ms. Kinnaman: Yes.

Council Chair Furfaro: Members, any more questions? If not, thank you very much for your testimony.

Ms. Kinnaman: Thank you.

Council Chair Furfaro: Did you want to speak all the way in the back? No, I am calling you now. This is my committee, I am calling you, you raised your hand, please come up.

MARY PAT MILLS: Mary Pat Mills for the record. I, again, am still opposed to this bill. I feel like to be able to smoke in the parking lot, I do not really feel like that is anything that is being given to us. I mean I can smoke in the parking lot now. I do not really feel like you are giving us anything by being able to smoke in the parking lot. After hearing Tessie's testimony, I think that it is a good idea if you could go along with what she has proposed. I guess that is all I have to say today.

Council Chair Furfaro: Vice Chair has a question for you.

Ms. Yukimura: Yes, so you do not want us to amend the bill to take out that it does not apply to parking lots then?

Ms. Mills: Well I do not really see that that is a benefit. As it is right now I am going to still be able to smoke...I will be able to go to the parking lot on my own to be able to smoke.

Ms. Yukimura: Not if the bill passes without the exemption of parking lots. If we say that the whole park is off bounds for tobacco, then it includes the parking lot unless we exempt the parking lot. So it is that if the bill passes, we will allow you to smoke in the parking lot, and you do not want that?

Ms. Mills: I do not see why...so you are saying now if this bill passes...if you do not do the amendment, I am not going to be able to smoke in the parking lot?

Ms. Yukimura: No, if we keep the amendment, which was made in committee which says that the no smoking does not apply to parking lots, if we keep it, then you will be able to smoke in the parking lot. And my intention was that it is close enough to the park so people, if they have to smoke, can go into the parking lot and get their relief, and then come back and be part of the park. But if we do not exempt the parking lot and the ban on tobacco applies to the whole park, including the parking lot, then that technically and legally will make the parking lot off bounds for smoking.

Ms. Mills: So if I have children with me, I have to take my children to the parking lot to smoke with me.

Ms. Yukimura: No, hopefully you can see your children or you have to give your children's custody to a friend, and you can go and smoke in the parking lot. I guess if you do not have anybody to leave your children with and you cannot watch them from afar, you may have to take them to the parking lot. But allowing you to smoke in the park would be the same impact.

Ms. Mills: Well, I guess I will be smoking on the beach, and my cigarette butts will be down on the beach instead of the park or the parking lot.

Ms. Yukimura: Right, if we make the parking lot off bounds to smoking, then I believe more people will go in the wading pond or below the high water mark and smoke, which I would prefer to happen in the parking lot rather than on the beach.

Ms. Mills: Well, I have a feeling it probably will be both, but...

Ms. Yukimura: Sorry?

Ms. Mills: It will probably be both. They will be going to the beach and hopefully to the parking lot.

Ms. Yukimura: It could be, and one way to do this whole thing is to try it, see what happens, and make further amendments as experience leads us to make amendments.

Ms. Mills: I guess it is too late, but I would still like to go back to either Nadine's or Mel's proposal, but it is too late.

Ms. Yukimura: Okay, understood, thank you.

Council Chair Furfaro: Any other questions, Members? None? Ron, did you folks wish to speak? Tina?

TINA SAKAMOTO: Aloha Council Chair Furfaro and Councilmembers. My name is Tina Sakamoto, and I am here to testify against Bill 2437, which prohibits the use of tobacco products in certain park areas. I am not a member or employee of any smoking or nonsmoking coalitions, nor am I in any paid status representing a group seeking tobacco legislation. I am here testifying as an individual, a concerned tax-paying Kaua'i resident. I am opposed to this bill for two reasons. I think it is flawed and I think it is discriminatory. I am a non-golfer and a non-smoker, so I came before you because of these concerns. I think this bill is flawed in the area of enforcement and prosecution, and this was already introduced and discussed in prior testimonies from the Kaua'i Police Department, Parks & Rec., and by Councilmember Mel Rapozo. I see this bill as discriminatory because it is allowing a legal activity in one park area and banning it from another park area. So the bill is saying golfers can in any of their golf park areas, but other park users cannot and they are relegated to the parking lot if the amendment is approved, and this bill passes as it is stated. So that is putting two parties against users of the parks and with the exception of the golf course, and I think that is discrimination.

I also have a concern because testimony was stated that in the golf areas there would be responsible adults supervising keiki. I am a park user and I consider myself a responsible adult. In fact a couple of weeks ago, I took our family on an outing. We went to a public park; we were going to have dinner there, and another park user who was a smoker observed us, and very politely moved away from our area and smoked a cigarette. That did not require a law. It was aloha and respect for us. And I think with education in lieu of the bill, the aloha and respect, I think, will uphold this "feel good" law that it has been referred to.

I have another concern as far as discrimination. I think it might violate a federally recognized Act. It is the AIRFA, American Indian Religious Freedom Act, which also includes Hawaiians. So in my tribe's religious customs and practices...

Council Chair Furfaro: Excuse me, Tina. That is three minutes, but you have another three minutes to continue.

Ms. Sakamoto: Thank you. It is customary to offer tobacco, to burn sage, a small bundle of sage or a sweet grass spray to bless our food, to honor our descendants, future generations, and offer tobacco for the land, the waterfalls, the mountains. So with the passing of this bill, will I be denied my religious freedom? That is a concern for, I think, all of us to consider. So I hope that when you are making your deliberations and your determinations that you consider that your response is not just to the squeaky wheel that is coming before you. It is to all people of Kaua'i, considering the cultures, religions, and practices also, and the possible violations. So I hope you will consider at the very least either disregarding and not passing this bill or not passing it as amended because it is relegating smokers to an area in the parking lot, and at the very least, I think the compromise would be a designated smoking area within the park, and allowing the smokers and taxpayers to enjoy either areas. If they choose to smoke, they have an area, and other non-users can also be accommodated to use the park. So that is my testimony, thank you.

Council Chair Furfaro: Questions for Tina? Vice Chair Yukimura.

Ms. Yukimura: Hi Tina, thank you for coming. Can you tell me what the AIRA stands for again.

Ms. Sakamoto: American Indian Religious Freedom Act. It also covers Native American as well as Hawaiians, I think Alaskans, so there is a group of indigenous people that it covers.

Ms. Yukimura: Okay, thank you.

Council Chair Furfaro: Any other questions for Tina? Tina, thank you very much for your testimony.

Ms. Sakamoto: You are welcome. Thank you.

Council Chair Furfaro: May I see the hands of anybody else who wishes to testify? Okay, Mr. Mickens.

GLENN MICKENS: Thank you, Jay. For the record Glenn Mickens. I was not going to testify. There has been so much testimony on this, I just have to add a couple of comments. I believe that the bill as amended gave the park attendees the right to smoke in the parking lot. I think that was JoAnn's amendment to this thing. However, as in Kapa'a New Park, the Sunshine Market is in the parking lot, so putting all those smokers in that area or other places where they may be doing the same thing from a park, putting them in a parking lot, I do not think that would be a good idea. I believe an area in the park, simply a distance from non-smokers downwind from them, would be more sensible, I think, as Mel was pointing out. And if smoking is illegal in parks, why should it be legal in golf courses or at the Convention Center? We are talking about a basically unenforceable law being made. So much dialogue has already been made regarding it. Unless tobacco is banned, which it probably will never be, then we have to depend on the people's basically common sense to be able to do something about it: they move, the smoker move, or have common sense enough to be someplace else. All the littering of butts is illegal too, as we have been talking about, but obviously this law violation is not capable of being enforced. So it is a very serious problem obviously, and I am not a smoker, as I have said a hundred times, and I never will support it, and it does not just say smoking, it says use of tobacco. As Mel was pointing out too, we do not have a testing laboratory that can take apart things if some guy wants to contest the case. Now we are going to go before courts, and there is going to be more things, more litigation going on. It is a bad problem, but unless tobacco smoking or tobacco itself...playing ball all the time, you probably saw the All-Star game yesterday, every one of those guys had a wad in their mouth. I have seen other guys that had their whole face operated on to take...from tobacco use like that. They go around to the different ball clubs showing the consequences of it, and it has some impact. It is horrible to see this disfigured person from the use of tobacco, and it is just a common thing, and I am not sure why, but it is addictive—I did not think you can get somebody addicted. But I think the educational process, that we put the money there. I think the educational process is definitely the way to go, try and get kids before they get hooked on the thing. Once they get you hooked, then I think you are hurting. But anyway, you have a tough decision on this thing to make, but I, again, for the reasons I have said, I do not think passing a bill like this in this form is going to be the answer, but it is up to you folks. Thank you, Jay.

Council Chair Furfaro: Thank you very much. Questions for Mr. Mickens? If not, Glenn, thank you very much. Ladies, if you want to jan-ken-po, you can, either one of you.

REBECCA SMITH: Good afternoon, Councilmembers. I am Rebecca Smith, a Tobacco Treatment Counselor, and I just want to thank you all for hearing our bill. We truly appreciate it. What I am here today to talk about is secondhand smoke. Thinking about it this week, I really wanted to share a story about...that kind of fits with all the issues that we are talking about today, protecting our people, their health, environment, and our children. When I was doing the American Lung Association, I actually had a person that came to see me because not that he wanted to stop smoking, but his pediatrician, his children's pediatrician wanted him to come see me. He had three children. All three children kept getting bronchitis, and it was from his secondhand smoke. And so when he came to see me, it was for an eight-session program, but after four sessions you are supposed to quit. The first session, I knew when he came in, back in my mind I knew this man is not going to quit smoking because he was kind of forced into coming. When he came in he blew into our carbon monoxide monitor. Carbon monoxide is a poisonous gas, and it also reads for children that are exposed to secondhand smoke, and I use this as a tool just to educate people, and we are talking youth and adults, to let them know...they can see for themselves how much carbon monoxide is in their lungs. Well, this particular man, his carbon monoxide was 60; it was all the way to the third level. I had asked how many cigarettes he smoked, and it was three packs of cigarettes a day. So this man used to smoke in his house, his car, and just everywhere around him. Sixty cigarettes is a lot of cigarettes throughout the day.

So I wish I would have been able to have him use this on his children because guarantee it would have been pretty high because when I do have children that are exposed to secondhand smoke, it has read as high as 19, which is equivalent to maybe 12 cigarettes. So that will happen if a child is in a house or a car, and these are young children. I think one that I had she was like 12 or 7 years, different range in ages, so that is pretty high. This man was not ready to quit using tobacco the first session, but we talked about not smoking in the house, so he decided not to smoke in the house, and the following week when he came to see me, it dropped. He did not change his tobacco habit, the same amount of cigarettes, but it dropped from 60 to, I think, it was like 49. So that was a huge amount. So we understood that not only was it his own cigarettes but his own secondhand smoke that was getting it to that 60. So he promised that he would continue to not smoke in the house. The following week he decided not to smoke in his car. So again, when he came back the third week, his carbon monoxide dropped again. So he was not smoking in the house, and he was not smoking in the car. The fourth week when he came in he was supposed to stop smoking, but he was not ready. He said, you know what Rebecca, I am just not ready. But I was happy because he changed two behaviors. He did not smoke in his house, and he did not smoke in his car, and that was what we were looking for for the protection of his children.

About three months later, he gave me a phone call after he was released from Wilcox Hospital. He had a massive heart attack, and this man was in his 30s. He wanted to continue with his sessions; he wanted to finish the last four sessions, and of course I was happy to work with him. The last four sessions, after you quit, you make your plan and you quit, now you start changing other behaviors, and one of the things I had asked him, I said, "What have you wanted to do with your children and your family because of your smoking behavior, smoking 60 cigarettes a day?" He said my children always wanted me to take them boogie boarding and I have never been able to do this, and my wife always wanted me to go walking after we eat. So I said you know what, Mark, get on the calendar, start doing it. So he did. It was really funny because one day I was at Kalapakī Beach and I saw him with his children with boogie boards. So he changed his behavior.

In his last session when he came in he is like...I asked my boss—because he worked for a complex—and he said, can we change the law in our complex? Can we change where you cannot smoke in this building anymore? And his owner said, the only reason I allowed it was because of you. This man had cigarette ashtrays all over the building, screwed on the side of the building. He removed them all and got signs from us and put them along his complex, and so his building was tobacco free.

So this law, again, we are protecting our children because a lot of them do get carbon monoxide. This machine is only reading carbon monoxide. It is a poisonous gas. It is not going to kill you immediately, but it is poisoning our body. And so it is a protection just like the seatbelt law is a protection, not texting in a car is a protection. We are just thinking about our people here on Kaua'i. I hope you look at our bill and support it. Thank you. Any questions?

Council Chair Furfaro: Questions? Go right ahead.

Mr. Kualii'i: Thank you, Mr. Chair. Aloha, Rebecca, thank you so much. I think this was a good example of you coming forward and doing some education, which is very important. So thank you for doing that and to show us your gadget, your measurement monitor or whatever you call it. I agree that the main intent of this bill is about protecting our children, but listening to you, I do not think that we are necessarily doing that because you are telling me about the measurement within the house and within the car. But you have not said anything about the measurements in the open air, which the parks are in the open air. So I think the whole principle seems fine, but where the problem really is is in those confined spaces where the children are actually attaining those levels of 19 or what have you. I do not know what you do about that, but as this comes from organizations like yours that want government officials to take responsible actions to help in protecting the children, do you have any other recommendations that would deal with the house or the car because that seems like where more of the problem is.

Ms. Smith: You will have high levels of carbon monoxide when you are in a confined environment, but we are inhaling secondhand smoke when you walk through it. I have been at beaches myself where...I was there with my family and a smoker came and sat next to us and started smoking. I asked politely, do you mind, our family we do not smoke here, and unfortunately I did not get a good response, and they did put the cigarettes butts out on the beach. So, again, protecting our environment, like I had mentioned before, each cigarette butt contains 50 known carcinogens, which are cancer-causing in that cigarette butt. I have been to the beaches and sat there, and there are cigarette butts in our sand, and we are sitting in that. And it is going back into the ocean and who is swallowing up those cigarette butts? It is our marine life. So if fish are swallowing up those cigarette butts, and we are catching the fish, and we are eating the fish, we are eating those known carcinogens that are actually in the fish. So I just feel that...well, we know that it is dangerous for our environment.

Mr. Kualii'i: I know that in the second paragraph of this bill it talks about the U.S. Surgeon General stating that there is no safe level of exposure, and I would imagine, of course, that is true. If something is poisonous, carcinogenic, that any level would not be safe, but clearly there are different levels. So I do not believe that there is probably specific evidence that shows how unsafe secondhand smoke in the open air from a distance of whatever amount. If you are right there next to them and you are breathing it in, obviously it is more unsafe, but with your machine, that is not something you can measure as far as people at the beach secondhand smoke, or in the park, whatever distance.

Ms. Smith: I have never asked family members because most family members that smoke they always tell me, I never smoke around my children. I do not smoke in my house; I do not smoke in my car; I do not smoke around my children, but their carbon monoxide for their children is pretty high. So if they are not smoking in the house or their car, and their children's carbon monoxide is still high, then they are being exposed. But I am not in their home, but I do know that they do read, but that is...

Mr. Kualii: I can tell you, too, that I always eat healthy, you know what I mean. Thank you for your work though.

Council Chair Furfaro: Mr. Rapozo had a question for you.

Mr. Rapozo: Thanks for being here, Rebecca. I just had a question and that is a success story that you just talked about, but would you not agree that success story did not happen because of a law. It happened because of education. It happened because a pediatrician sent this person to you and you did your job well enough that in fact in time...so I am not sure if we had passed this law he would have quit smoking; I just do not. He would still be smoking. He smoked in his house and his car. My gosh, he would be smoking on the beach or he would be smoking in a parking lot. But I think it is safe to assume that with education we can achieve much better results as far as people quitting, not just people smoking far away. I think the objective, if I am reading the purpose of this bill, is to take care of the health of our citizens, and you do not do that through legislation, you do that through education, in my opinion, and I guess... Would you agree with that?

Ms. Smith: Yes, if...yes, when we did the program for the schools, we do an education piece in our schools and then it is an alternative to suspension. When kids were caught smoking, they had to come and see us, and we were able to get a lot of kids to stop smoking. So in this law, if people are caught smoking, if there was a program that allowed them to get education, it is up to them. We are just here to give them the education piece and the tools to...

Mr. Rapozo: The problem of that is this law...we are not going to be able to enforce it. So if we cannot enforce it, you cannot mandate a penalty or a sanction. That is the problem versus an educational campaign. And I know your organization does a great job with educating kids and adults alike, like that father, the 30-year-old person who had a heart attack. When they get the heart attack, they get educated real quick, but it is too late.

Ms. Smith: Sometimes.

Mr. Rapozo: Would you not support programs that educate more, give the organizations like yours more of an opportunity to get in front of people, and sharing...the story that you just shared would impact quite...it has educated me, today, but I think like KipuKai said, we are not talking about a house and a car. I can tell you some municipalities on the mainland are proposing legislation to restrict that as well. I think that is a little bit too intrusive, in my opinion, as far as government. The law would not have stopped that gentleman. He would still have the heart attack, probably sooner, but your education did. So I think that is what I get out of your story.

Ms. Smith: But I...we want to protect our environment, our parks. I do frequent there often and it is pretty nasty to walk through cigarette butts.

Mr. Rapozo: The nice thing about the littering law, we do not have to prove that it is tobacco. If it is anything that is not biodegradable, it is littering. We do not have to go send it away, and it is littering. Anyway, I just wanted to get your input on the education component. Thank you.

Ms. Smith: Any other questions?

Council Chair Furfaro: Okay, next speaker.

VALERIE SAIKI, Coalition for a Tobacco Free Hawai'i: Good afternoon Council, I am Valerie Saiki with the Coalition for a Tobacco Free Hawai'i. I do want to tack on just a little bit just because I have been hearing everyone else speak, and I did want to add that after the statewide law went into effect, the 1-800-QUIT-NOW service has seen a double in incoming calls after it went into effect.

Ms. Yukimura: Could you repeat that again, please? What exactly happened?

Ms. Saiki: The 1-800-QUIT-NOW, the State quit line, had doubled their calls after the implementation of the statewide smoke-free law on November 16, 2006. It is just people become more aware when they are brought to it this morning. This bill has been all over the news. Every half hour they talked about it, showed little images. I do not know if you folks were aware because you were probably in meetings, but it was on the news every half hour. I saw it at least five times in repetition, and so the education is now starting to spread. And from the very beginning we have talked about this for pretty much 10+ years. Councilman Chang and myself got serious about it within the past year, and we have been sending out notifications to everyone, trying to get input because we did not want to just create a bill that was one-sided. We did want other people's input, and I have gone around. We had a booth at the Farm Fair last year, and we did talk to community members, and we did listen to the opposition and the support. Actually, I probably spent most times with the opposition because I seriously wanted to understand where they were coming from, why did they feel like this was against them. So what I also did was create a fact sheet here for you folks as part of my testimony for today. The Coalition for a Tobacco Free Hawai'i supports the original amendment, and with the poll that I mentioned before done in 2011, 62.9% of Kauaians support a smoke-free law on the beach and parks. Kaua'i's smoking numbers is only 13.1%. We do know that if this law goes into effect that we will work hard to create an educational campaign that we will run until implementation date. And we want to try our best to educate the public and not just make people do things because we feel that it is good. We want them to understand that it is a healthy conscious decision to make. And you folks all know who has supported this bill.

Last week we had an amendment added that this section shall not apply to designated parking areas, and we just have a lot of concerns on that. And so I do have to mention that on behalf of the Coalition for a Tobacco Free Hawai'i, as well as Tobacco Free Kaua'i, we cannot support an amendment that creates a designated smoking area that surrounds the park. The area is just large enough that when a patron enters the park, they will be forced to walk through the clouds of smoke, and for somebody who may have a health ailment, walking through that, getting exposed, it puts the County in liability, and you never really know until it happens, and you just need one incident to really feel bad.

Can I have an extra three?

Council Chair Furfaro: That is your first three minutes. You have an additional three minutes.

Ms. Saiki: Thank you. And so I did just want to point out that it is a higher concentration when people gather together to smoke, and we would rather just work on this again and maybe come up with a better alternative; however, we do know it is in your folks' hands, and you will make the best decision. I do just want to leave you with a few reminders, and that is also at the back end of my paper. The first is success of this policy, whichever one you do choose, is upon the thoughtfulness, consideration, and cooperation among smokers and nonsmokers. All community members share the park and share responsibility, adhering to enforce this policy. The right of a nonsmoker to protect his or her health and comfort will prevail over any person's desire to smoke. The Coalition for a Tobacco Free Hawai'i's vision for Hawai'i is that one day the death and disability from tobacco use or exposure is no longer a major public health concern. So that is our standpoint. I hope you understand; it is not that we are not trying to be compromising, but we just feel that this specific language is something that we cannot compromise because you cannot compromise people's health. And on a personal note, if you noticed my other eye, really swollen and red, it is because my neighbor was burning rubbish yesterday. And so even with that bill in effect, people still...it has been cut down a lot more, but that smoke coming into my house, I cannot...what am I supposed to do? Leave? Continue my research and studies in the library? I should not be forced to do that. And so I feel like you use the parking lot...utilize the parking areas, the marked stalls to go into the park, you should not be forced to walk through that smoke. Thank you.

Council Chair Furfaro: Excuse me, so I want to make sure I understand what you just said. The Coalition for a Tobacco Free Hawai'i cannot support the bill with the amendment in it.

Ms. Saiki: Yes.

Council Chair Furfaro: There are members at the table that cannot support the bill without the amendment in it.

Ms. Saiki: And that is their decision.

Council Chair Furfaro: Are you comfortable with what you just said?

Ms. Saiki: Yes, I am.

Council Chair Furfaro: It is all or nothing.

Ms. Saiki: It is not all or nothing. If there is another amendment that gets proposed, we will look it over, and we will consider it, and if it something we will support, we can support it. But I am just saying the current language...the original bill is what we support.

Council Chair Furfaro: The amendments are introduced at the Committee level. The other amendment did not pass. The amendment that passed is the one that has come to the full Council. I just want to get clarification again with that amendment allowing smokers to be able to have a cigarette in the parking lot areas other than the open fields of the park, you cannot support that.

Ms. Saiki: Not with that large area. We originally had different language that was kind of talked about and they did not get finalized, so I have not had a chance to propose that to our members. However, this specific language, "except in designated parking areas," we cannot support.

Council Chair Furfaro: I understand what you are saying about your members. I am saying about the body of which I am the Chairman. The amendments are done in the Committee. Tobacco Free Hawai'i cannot support the amendment as presented. Is that right?

Ms. Saiki: Yes.

Council Chair Furfaro: Okay, Vice Chair Yukimura.

Ms. Yukimura: So Val, rather than having smoke free parks, most of them being free of smoke, you want the parks to have smoke in it.

Ms. Saiki: I understand the scenario; however, it would be the way how it is and we would try again later.

Ms. Yukimura: Even though one year...I mean you guys are talking about people in a parking lot for five seconds, you do not want that, but you want people like for 10 minutes being exposed to smoke in a park?

Ms. Saiki: Well, think of it this way. When you go to a park with your family, how long does it take to unload a car with say two children, and a day's worth of supplies?

Ms. Yukimura: Well, think about it this way, though, you would have the rest of the park smoke free.

Ms. Saiki: And smoke drifting too as well. I mean we all smell it. We can smell when someone is smoking even though we cannot see them.

Ms. Yukimura: Well, you are going to have somebody outside the boundaries of the parking lot smoking too. There is always a boundary somewhere unless you are going to propose a totally public area, like I heard New York has, all public areas. But you do not even have the beach free of smoke. My concern is you do not allow smoking in the parking lot, people are going to go wade into the pond or go below the high water mark and smoke. That is even worse, so give them another place at least. And of course, work with DLNR to get that place smoke-free too, but that is in increments.

Ms. Saiki: And I understand, like we do not want...the goal was not to encourage people to go onto the beach and smoke, and we definitely do not want them to litter as well, and I do not think that should also be a justification to vote either way. I do feel that having something concrete that citizens can back up on is something that will be more beneficial in the long run than to pass something for a baby step.

Ms. Yukimura: Well, you think smoke free parks, except for the parking lot, is a baby step. I mean that is a major statement, and...

Council Chair Furfaro: She has answered the question.

Ms. Yukimura: Yes, thank you very much.

Council Chair Furfaro: I just want to say it might have been better for us to approach this and I had shared this with Mr. Chang when he asked me to put this on the agenda, that we would have started with a resolution, a resolution that lived up to kōkua and aloha, and having people realize that. But Mr. Chang wanted to go to the ordinance. I put it on the agenda. Now we are at a place that we have by committee, an amended ordinance that gives smokers a place to manage their habit, and what the Coalition is now saying, if you keep that amendment in it, you cannot support it. I just want to make sure I am really clear on that.

Ms. Saiki: Yes, I mean if you think about the parking lot, that is the main entrance to pretty much every park.

Council Chair Furfaro: But that is the amendment and you cannot support it.

Ms. Saiki: That specific amendment. The original bill we can still support.

Council Chair Furfaro: I will pose you a question. Without the amendment, you cannot support the bill?

Ms. Saiki: With.

Council Chair Furfaro: With the amendment, you cannot support the bill. You have answered my question. Councilwoman Nakamura.

Ms. Nakamura: I would like to follow up, Chair, with your comment about the resolution and to ask Val if there were a more general resolution that talked about discouraging smoking in public parks, would you support that?

Ms. Saiki: We would support that; however, we also feel that with a law it makes it stronger and more effective public-wise.

Ms. Nakamura: What if we did a resolution with some language also about the education, really the need to back up the need to support education as well. Would that be helpful?

Ms. Saiki: Yes, that would be helpful. We do want to educate, and we all know a lot of the budgets have been cut, so education-wise there is only a few of us that are still able to go out there.

Ms. Nakamura: So to have some sort of policy to promote smoke-free parks, you are right, it would not have the teeth, but we are also saying this bill, as proposed, also does not have that enforcement. I do not know if you all had a chance to see the Chief's response to Mr. Rapozo's question.

Ms. Saiki: I never got a copy of anything.

Ms. Nakamura: Basically saying the difficulty of enforcing it, not having the \$300,000.00 equipment to test for tobacco, the need to...not having the space for the equipment, and just a lot of issues regarding the enforcement part of it given this law...this bill. So, I just wanted to just say, Chair Furfaro, that option of a resolution...

Council Chair Furfaro: That is what I suggested a long time ago.

Ms. Nakamura: It is something that I think I would also support too.

Council Chair Furfaro: On that note, we need to take a break, a tape change. So we are going to take 10 minutes right now. Thank you very much.

There being no objections, the meeting was recessed at 2:52 p.m.

The meeting was called back to order at 3:04 p.m., and proceeded as follows:

Council Chair Furfaro: The full Council is back. I do want to say to some of the members after hearing the challenges, I would entertain possibly two motions, and those motions would be (1) to defer so that we can have some dialogue about the statement made to us about Tobacco Free Hawai'i or the other message would be to possibly, since they will not support it in its present form, to take a motion to receive. Now, I myself would be much better if someone made a motion to defer. Can I get the rest of the members here? We are on a break again.

There being no objections, the meeting was recessed at 3:05 p.m.

The meeting was called back to order at 3:06 p.m., and proceeded as follows:

Council Chair Furfaro: We are all going to live aloha and respect the rules, so we are back in session here. I would like to still have the floor as I was narrating opportunities here. We have two opportunities here. Opportunity #1, a member could probably want to consider moving to receive for the purpose of realizing Tobacco Free Hawai'i's position on no amendments, and that will allow some discussion. Or we could move to defer the item, which requires no discussion, and I have a tendency to support that so we can get two weeks on the deferral to try and have a better grasp of this. But at the same respect, if neither happens, we might want to go back to just introducing a resolution. So on that note, Mr. Rapozo?

Mr. Rapozo moved to receive Bill No. 2437, Draft 1 for the record, seconded by Mr. Kualii.

Council Chair Furfaro: We have a motion to receive and a second. Dialogue, I am going to let you have the floor first, Mr. Rapozo, since you made the motion, then followed by Vice Chair Yukimura.

Mr. Rapozo: Thank you, Mr. Chair, and I appreciate the suggestion of a deferral. We have had discussion. I believe we all have heard from the community. We have heard via email and phone calls and meeting people in the public. I think we all have the information necessary to make a decision. My reasons for not supporting the bill is not because of the Tobacco Free Coalition's opposition to the amendment, although I agree that the amendment causes a bigger problem. It actually concentrates the smoking to one area, an area that everybody has to use. Everyone uses the parking lot, so to put the smoking in an area that you know people will come, I think, defeats the purpose of the bill.

But I also have concerns about the equal protection between golfers and park users, beachgoers. Golfers can smoke. They can smoke big, long, 9-hole cigars and it is perfectly legal, but you cannot smoke a little hand rolled tobacco cigarette in a County park if this bill should pass. The main issue, if you look at the findings and purpose of this bill, (1) were health risks. Again, as I stated earlier to Rebecca, that can be managed, and actually I think positively affected if we have a great

education campaign. And I have no problem supporting Tobacco Free Hawaii and other agencies that provide that education with financial support so that can happen. I do not have a problem with that and I would fully support that because I do believe that cigarette smoking is a bad thing.

The secondhand smoke argument, that is not really...this bans all tobacco products. Chewing tobacco does not produce any secondhand smoke, but yet that is also banned as well. So I think it is a very broad brush on this bill.

The enforceability, I brought it up at the last meeting because I had already checked with the labs, but the Chief of Police did check with the State's Narcotics Enforcement Division, and the chemists clearly stated that they cannot do it, and in order for them to do it, as Nadine said earlier, the instrument just to do that is \$300,000.00, and the State does not have the space to do it. So it is not even an enforceable law because we would have to prove that in fact the substance being smoked or used was tobacco. So that is a big concern that this Council, I think, is setting a very bad precedent if we are going to start passing laws that we know up front that we cannot enforce. To me that makes no sense. You pass a law to address an issue, but you have to have enforceability. I question even the constitutionality of passing a law that you know will not be enforced.

I spoke about the parking lot. Again, everybody uses the parking lot to get to the park, and if we are going to concentrate everything there, I think you just subject more people to more smoke, concentrated smoke. So I am hoping that we can receive this bill today, definitely start working on a resolution which is, I think, the better way, and educate the public. There is no problem if the Council or the County designates parks as a smoke-free area in a resolution form, and it is not a law. But this law, I believe, is flawed and I will not be supporting it. I would like to see this thing, again, to prolong this for another two weeks, there is no more information out there, I believe, that would warrant a deferral. It is simply whether or not you believe that this bill will serve the purpose, the findings and purpose that was outlined in the bill, and in this case I do not believe it does. So thank you, Mr. Chair.

Council Chair Furfaro: We have a motion and a second with testimony. Anybody wants to add testimony? Vice Chair Yukimura.

Ms. Yukimura: Thank you, Mr. Chair. I would like to have a deferral, but I think we should have a discussion first. I actually have four amendments I would like to work on, and then if we cannot find agreement or a bill that we feel is workable, then kill it, and we will do something else. But I would like to address some of the issues that came up in this discussion. First of all, I think it was Councilmember Chang's question about a parking lot used for non-parking activities such as the Sunshine Market or did somebody from the public bring it up. Okay, so I want to address that. I think this bill is not just about keiki health. I think it is about everybody's health, so I want to look at that. I looked at the ordinance that is presently in effect regarding smoking in buildings, and it has a different definition of the prohibited activity. It does not mention tobacco at all, but mentions smoking. That may have some issues also, but I want to look at that issue. And then the parking lot issue. You might recall that my first amendment said at the farthest point of park activity...that if the parking lot was to be allowed for smoking, it would be the farthest point from park activity, downwind from the park activity. Maybe that is a better definition. So those are at least four things I would like to work on and have two weeks to work on it. Like I say, I would

also like a chance to talk to the Coalition and to others, and then bring it back for consideration by this body. And if we cannot find some consensus, then we have our other options.

Council Chair Furfaro: And that other option might be by resolution.

Mr. Rapozo: Mr. Chair, I just want to ask.

Council Chair Furfaro: Go right ahead, you have the floor.

Mr. Rapozo: Councilmember Yukimura, I would suggest that or I would that you refer it to the Committee because otherwise you are going to be working on four amendments at the full Council meeting and I do not think that is the right way to go.

Council Chair Furfaro: You mean it will not make the Chair happy?

Mr. Rapozo: I do not think it would make the Chair happy.

Ms. Yukimura: We want to make our Chair happy, so I am fine with that. It will cut down my time to work on this, but I will do my best.

Council Chair Furfaro: Mr. Kuali'i, you have the floor.

Mr. Kuali'i: Thank you, Mr. Chair. I just wanted to say that I thought that we heard a lot of good testimony today and some of it was new testimony, and I really appreciated the testimony from Mrs. Sakamoto, and I agreed with everything she said as far as the bill being flawed and discriminatory. We all know from everything we have heard and now from the email from the Chief that enforcement is a big issue, and I really think that our focus should be on education and helping them, helping Val and Rebecca, do the important work that they are doing, and we can definitely do that with a resolution and build from there. Those are my points here and now, but I just want to say too I appreciate everybody's work thus far, but I do hope that if we work on this for another week or two weeks or three weeks, whatever it takes, that we are able to work out some serious problems, serious flaws in the bill. There are some that I think may not be able to be addressed, but we will see. You are already talking about four. So maybe I will take into light what some of the testimony was and try to help with the amendments as well. Thank you.

Council Chair Furfaro: Vice Chair Yukimura, you have the floor.

Ms. Yukimura: So I am ready, unless there is more discussion, to make a motion to refer it to...Parks and Rec. for next week's work. Is that all right? Anybody...Chair?

Council Chair Furfaro: Well, I think I want to entertain the motion and the second on the receipt.

Ms. Yukimura: Well, Chair, the motion to refer, I believe...

Council Chair Furfaro: May have precedence.

Ms. Yukimura: ...takes precedence.

Council Chair Furfaro: Yes, but we need to consult with our rules first.

- Mr. Rapozo: I do not believe so, Mr. Chair.
- Ms. Yukimura: You sure?
- Council Chair Furfaro: I know there is a critical chart.
- Mr. Rapozo: The deferral does, but not the referral.
- Council Chair Furfaro: Oh, the deferral, but not the referral. I think you are right.
- Mr. Rapozo: We need to take the call, call a vote.
- Ms. Yukimura: I mean look, the bill is on the table. I think you can refer it.
- Mr. Rapozo: You can, but you would have to honor the motion to refer first. You have to take that vote...
- Council Chair Furfaro: Why do we not just have a moment of calm, and we will have our staff look up the query.
- Ms. Yukimura: All right.
- Council Chair Furfaro: That is a good way to do it. It could drive me back to smoking with this. I am a 27-year non-smoker now. Peter, are you able to look at which motion has precedence?
- PETER MORIMOTO, Legal Analyst: First, to lay on the table, Second to postpone or defer to a certain time.
- Mr. Chang: Chairman, would you like to have him on the stand?
- Council Chair Furfaro: He is fine right there, but does he have a microphone? Use the microphone, Peter.
- Mr. Morimoto: Yes. "Whenever any question whatsoever is under discussion, the motions relative thereto shall be first – to lay on the table with no debate, second – to postpone and defer to a certain time with no debate, third – to commit or to refer, fourth – to amend."
- Council Chair Furfaro: So you are a third priority and you are a second priority.
- Ms. Yukimura: And I think the main motion is way below.
- Mr. Rapozo: Let him finish. (Inaudible) he is still trying to finish and read.

Mr. Morimoto: "Fifth – to postpone indefinitely, sixth – to receive for the record. The first two motions shall be decided without debate and shall be put as soon as made." So basically to lay on the table or to postpone or defer are the motions that are decided without debate, and are put as soon as made. Motions to refer are not in that category.

Mr. Rapozo: Thank you.

Ms. Yukimura: Excuse me, Chair.

Council Chair Furfaro: Vice Chair Yukimura, you may address the staff. Peter, I am sorry, please come to the stand. I am sorry. Vice Chair Yukimura, you can pose your question. Peter, please introduce yourself first.

Mr. Morimoto: Peter Morimoto, Legal Analyst.

Ms. Yukimura: So the question is not what has debate. The question is which motion has precedence, and it sounds like the motion to refer has precedence over the motion to receive. Is that correct.

Mr. Morimoto: Yes.

Ms. Yukimura: Thank you.

Council Chair Furfaro: Could you say that, answer that again or...

Mr. Morimoto: Yes, the motion to defer...

Ms. Yukimura: Refer.

Council Chair Furfaro: Refer.

Mr. Morimoto: Oh excuse me, no, the motion to defer has precedence.

Ms. Yukimura: The motion to refer has precedence over the motion to receive. That is the question.

Mr. Morimoto: Yes, yes.

Ms. Yukimura: Thank you.

Council Chair Furfaro: So the motion to refer has a third precedent, the motion to receive follows fourth.

Mr. Morimoto: That is correct.

Council Chair Furfaro: Fourth and sixth.

Mr. Morimoto: The motion to receive is the last.

Council Chair Furfaro: Sixth motion.

Mr. Morimoto: Yes.

Council Chair Furfaro: Okay, very good. Any further questions for the staff? Thank you. Vice Chair Yukimura, you have the floor.

Ms. Yukimura moved to refer Bill No. 2437, Draft 1 to the Finance/Parks & Recreation/Public Works Program Committee, seconded by Mr. Chang.

Council Chair Furfaro: Discussion here? You know I am going to do something here. I have one person that signed up late and since we are now at this referral, I am going to suspend the rules, Lonnie, you have three minutes to address us if you would like.

There being no objections, the rules were suspended.

LONNIE SYKOS: Thank you, but you need to move on. I think everything has probably been said.

Council Chair Furfaro: Merci beaucoup, Monsieur. Thank you. So I will call the meeting back to order.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Furfaro: Dickie, you have the floor.

Mr. Chang: Thank you, Chair. I believe it has been a very interesting discussion, and I also do feel that we are without our Parks & Recreation and Finance Chair, Councilmember Bynum, that fell ill today, and I know that he would have a lot to say. This is a really tough one because I think everyone here all wants to try to have some sort of a win-win situation. For the record, I believe people realize that I was actually involved about a year ago, more than a year ago. I felt that I tried my best to understand it, to ask as many questions to get our various County agencies involved, from Parks & Recreation to the Prosecuting Attorney, to our Police, of course to our own Attorney's Office. I appreciate the new testimony. Councilmember Yukimura, I believe, or Councilmember Kualii mentioned Tina Sakamoto, and there was another portion that she had addressed to us on the cultural, religious aspects, and what really are our options.

From the very, very get-go, it was all about the beaches and the pollution on the beaches. We worked our way into the Parks. I believe that this bill is for the health of not just the children, but for our adults as well because as I was trying to explain the bill regarding the children, and I am sadly not a parent, and I know a lot of people that care about their children, but so many people said it is not just about the children. It is about us adults with emphysema, with asthma, just anybody can breathe it, and people have various levels of sensitivity, and they can smell. But I learned a lot on this, and I do not know if there is any good timing or bad timing; however, I believe that this discussion that we have been having and Valerie mentioned about the fact that this bill was in someone's face or someone's computer every half hour, but I do know that there are people that are monitoring to see what Kaua'i is going to do because the nation, the islands, the State... This constantly comes into my mind when I was educated by a visitor from San Luis Obispo, California that said it all began there 20 years ago, and now the entire State of California, if I am not mistaken, is pretty much smoke free in public areas. But also when I did talk to the author of the Big Island, then Council Chair J. Yoshimoto, he, like many of us, kind of went through a lot just on the streets or via emails or phone calls or what have you. But the one thing that I would say is

he told me on many occasions if he could have done it four years prior to 2008, he would have, just based on the results that they have had. And I think we all took an oath that somewhere down the line the decisions that we make would be only for the betterment. Right now what might not seem like it is fair or it is not right, we try our best to make it fair and what is right, but I do believe that in the long run when people look at what we have been trying to accomplish, it will make Kaua'i a lot better, a lot more healthier, a lot more cleaner place.

There is the argument about the smoke, then there is the argument about the litter, but again as I mentioned last week, I invite anybody to take a walk throughout our parks. Our park maintenance crew does an excellent job, and right there and soon thereafter, it is like people just litter and not consciously litter. When I looked at these rubbish cans and I visualized them as being designated areas that you can dispose of your butt, I am standing next to people and we can actually count the butts everywhere but inside of the can. And the majority of the people that have called me have been nonsmokers that just want equal rights to everyone else. They have been, the majority, I would say the nonsmokers. And today we heard things about aloha and respect, and I think that some of the educational parts that we need to let people know is aloha and respect because the last thing I want to see is somebody say, hey, you are not 20 feet away, people, not being courteous with one another, and it is an unenforceable law.

Council Chair Furfaro: Excuse me on that note, Mr. Chang, my original commentary was correct. We have a housekeeping task to do because Peter did not realize that the first motion had a second. So we have to close that motion, and I will give you the floor again after that.

Mr. Chang: Thank you.

Council Chair Furfaro: I am sorry, it is a housekeeping item.

Mr. Chang: I understand.

Council Chair Furfaro: Mr. Morimoto, can I have you come up? So did you hear what I had just said that we could not have gone to the next motion because we had a motion and a second on the portion to receive. And I believe we have to close that out first.

Mr. Morimoto: That is correct.

Council Chair Furfaro: Okay.

Ms. Yukimura: Would you please read the rule?

Mr. Morimoto: Yes, this is rule 6(b), "After a motion is stated or read by the Presiding Officer, it is deemed in possession of, and shall be disposed of by vote. However, any motion may be withdrawn by the movant with consent of the second at any time before a decision or amendment."

Council Chair Furfaro: So we have an option here to have the person that seconded that motion to remove it?

Mr. Morimoto: Or a vote.

Council Chair Furfaro: Or a vote, yes.

Ms. Yukimura: Chair, that is not correct. Excuse me, the whole idea of precedence is that one motion has precedence over another and can be made after the motion has been made. Absolutely, you can talk to Mr. Tacbian. That is the whole set of precedence, that surely to complete a motion it has to be made and seconded. But what motion can be made above it without having a resolution is the motion to defer, the motion to...otherwise we would not be able to do a motion to defer after there has been a motion to receive and a second, and that is not true at all.

Mr. Morimoto: Just reading the rule.

Ms. Yukimura: Well, your reading of the rule does not indicate what you are ruling.

Mr. Morimoto: I am not ruling one way or the other. I am reading the rule.

Council Chair Furfaro: Okay, I am interpreting it from this document right here. Now, I would hope that I could get the courtesies from the Members to vote on this because as I understand the main motion for the full Council can be made only when no other motion is pending. And we had a motion and second, so that motion was pending. Now I am going to vote no on that motion, I would hope we could get the housekeeping portion of this clarified. I have an uncertainty here at the Council. I will take another recess for 10 minutes, and my interpretation of the rule is at question right now, so please get clarity because when I come back I want to call a vote on the original motion which is still pending according to my understanding. We are in recess for 10 minutes.

There being no objections, the meeting was recessed at 3:28 p.m.

The meeting was called back to order at 3:39 p.m., and proceeded as follows:

Council Chair Furfaro: First of all, we know Roberts was an engineering officer in the Civil War, who dealt with challenges on who, what meetings allocated what kind of resources to build bridges and so forth. And we had special training back 10 years ago on this system by a consulting firm of IEEE, who merged the order of precedence with our rules and Roberts rules, and that is what I was interpreting. But for the purpose of this, you know the real basic thing over here is really let us make sure we have some justice to this process, and we temper it with courtesies and aloha. You are a parliamentarian. Can you give us feedback about precedence.

There being no objections, the rules were suspended.

ERNEST BARREIRA, Purchasing Director: Good afternoon, Chair and Members of the Council. Ernie Barreira. Before I answer, I would like to place some caveats on the floor. As Councilmember Rapozo pointed out, I was a parliamentarian 20 years ago. I do not currently hold a certification in parliamentary procedure. I can tell you based on what I have had discussions on at the recess and looking at Roberts Rules of Order as they were in place 20 years ago, that the documentation within your rules would convey the precedence and the priority of those rules. So given that relative discussion in terms of what I saw on paper and the fact that your rules trump Roberts Rules as defined by, I believe, the rules of the Council, it would appear that item 3 takes a higher rank in terms of order of priority as it would be in the subsidiary rules of Roberts, than it would be.

So relative to my non-certification status as a very former parliamentarian and based on my understanding of precedence, the motion that was raised by Vice Chair Yukimura would take a precedence in the current discussion.

Council Chair Furfaro: Okay, that is the only thing I asked for, other than I will see if I can get a refund on my training. So we are going to go with that interpretation and we will send some questions over to Mr. Phil Tacbian, who is a parliamentarian. Thank you, Mr. Barreira.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Furfaro: That is the ruling of the Council Chair and we will get some clarification. So you have the floor, Vice Chair Yukimura.

Ms. Yukimura: If we do not have any more debate, then I suggest we vote on the motion to refer to Committee.

Council Chair Furfaro: And I think we would have to refer to it in Committee three weeks from now. I do not think that based on what was raised would you be ready in a week?

Ms. Yukimura: I could use three weeks if it is okay with the Council.

Council Chair Furfaro: So let us state the motion as such.

Ms. Yukimura moved to refer Bill No. 2437, Draft 1 to the August 1, 2012 Finance/Parks & Recreation/Public Works Program Committee meeting, seconded by Mr. Chang.

Council Chair Furfaro: Discussion, Members? Mr. Chang, you have the floor again and if you want to continue your other narrative, but I do think there is an opportunity in Committee for you to speak, even as a non-member.

Mr. Chang: Yes and I understand. I actually kind of lost my train of thought from that time-out, but I know that I was mentioning and I know that we were talking about aloha, words that were used like aloha, respect, common sense, and I think this is the time that messages should be coming out from the Coalition, from the newspaper about what we are dealing with right now, which is aloha, which is respect, which is common sense. As we go further down, I learned something right off the get-go. I learned that right at the very beginning, enforcement and prosecution was pretty much was going to be nil or none. Maybe that is not the way to put together laws if you cannot enforce it or there would be no mechanism or prosecution. But I am just hoping at this point that the public can be a little bit more aware of what we are tussling with and I would just say, again, if we can show some aloha and some respect and some common sense while we are around the park areas or people with respect to one another, whether they are nonsmokers or smokers. So I will leave it at that and I just wanted to repeat myself again that I believe that we are doing the right thing in lieu of the fact that Councilmember Bynum is also not here, and I am sure he would have had a lot to put into the discussion. Chairman, thank you.

Council Chair Furfaro: Any further discussion before I do a roll call vote on the motion to refer. Any further discussion? Go right ahead, Mr. Kualii.

Mr. Kuali'i: I just wanted to make a quick point that if in fact that there is so much changes that happened to this bill to substantially change it, then I think it would be important to bring it back to the public. Maybe in the end it may not be...it would be best to do the resolution for the education piece, follow it with a bill, a new and totally different bill, reworked entirely. I am willing to support the referral to give it a shot in the next three weeks, but I am a little worried that maybe there is so much that we have to do that it might alter it substantially, but we shall see. Thank you, Mr. Chair.

Council Chair Furfaro: And my comment is for an item that is challenging for us for enforcement, I am back to my original statement. It might have been our first step to really do a resolution first. But I will support sending it as a referral back to Committee in three weeks. Mr. Rapozo.

Mr. Rapozo: Thank you. Likewise, Mr. Chair, I believe the resolution is a much more practical way, a more realistic way. I think we are...as a Big Island Councilmember that passed this told me it is a "feel good" bill because it is unenforceable. That is the bottom line. I will not support any bill that is unenforceable. I am just not going to do it. It just makes me feel like...that is not our job. Resolutions are not enforceable. I could possibly support a resolution providing it did provide equal protection for everyone. A resolution in this case would definitely be the right way to go.

The other thing, as a follow-up to Councilmember Kuali'i, this bill talks about any tobacco product, and what I am hearing is possibly...and I brought this up at the last meeting about the smoking versus tobacco. Councilmember Yukimura brought it up this meeting, and she is contemplating an amendment. I believe if you are going to change the substance of this bill from any tobacco product to just smoking, then it would constitute, and this would be for the County Attorney to answer, but it would constitute a substantial change that would require another public hearing. So I think there is a lot of concern, but for me as it stands, the referral of this I am not going to support it because I will not support a bill that is not enforceable. It just goes against my grain, and I will participate with the discussion, and should this pass and it sounds like it will, the referral, but as far as at this point, I cannot in good conscience support a bill that we know today cannot be enforced. Thank you.

Council Chair Furfaro: Thank you. If there is no further discussion, I am going to ask for a roll call vote, please.

The motion to refer Bill No. 2437, Draft 1 to the August 1, 2012 Finance/Parks & Recreation/Public Works Program Committee meeting was then put, and carried by the following vote:

FOR REFERRAL: Chang, Kuali'i, Nakamura, Yukimura, Furfaro	TOTAL – 5,
AGAINST REFERRAL: Rapozo	TOTAL – 1,
EXCUSED & NOT VOTING: Bynum	TOTAL – 1.

Council Chair Furfaro: So that is a 5-1 motion to refer. I want to thank all the Members, but please consider my earlier comments about, at this point, even considering a resolution. We will go to the next item, and I think that is myself on the agenda, right? On the agenda I am going to make a presentation on the financial statement for the first 10 months of the year, and I am going to turn the meeting over to you Vice Chair as our rules state so.

Ms. Yukimura: Thank you, Chair. I will give you the floor to make your presentation.

Mr. Rapozo: You might want to call the item for this.

Ms. Yukimura: Thank you. Please read the item.

COMMUNICATIONS:

C 2012-210 Communication (06/29/2012) from Council Chair Furfaro, requesting the Administration's presence to answer questions regarding his analysis of the Period 10 Financial Statements and forecasted cash flow position through the Period Ending April 30, 2012.

Ms. Yukimura: Thank you. Chair Furfaro.

Council Chair Furfaro: Thank you very much, Vice Chair. As we get closer to the end of the year, I wanted to make a presentation on our financial statement for the period, hopefully setting the tone going forward that we would get this kind of overview from the Administration in the future. And as you also know, I added to the budget process this year a review of all accounts that make up the General Fund, and I think it is important for us to have a pulse on this going forward.

Now, there are things that I want make sure we point out is understanding a Balance Sheet is one thing. Understanding a Reserve Account is another thing. But understanding a Financial Statement is most important because we get many, many pieces of information made available to us in those interpretations. In the first six years I was on the Council I was the Finance Committee Chair and I made the summaries and started doing them just quarterly. But I think if we set a tone on reporting going forward, we will have a much better picture from the Administration. I also want to say that you also have to understand that there are two forms of accounting. There is an accrual accounting where if you budgeted an expense of \$60,000.00, no matter what happens for the year, you actually book \$5,000.00 of that expense until you have a total, and then when all the bills are summarized, you kind of do one housekeeping cleaning. So if the project only came in at \$59,000.00, you will see that comparison. But through the year on an accrual process, you will see the expense. The other form is what the County uses, and we do cash accounting. We actually only book the expense when we actually have the bill to pay, and that is where there is some deviation from what you see on the financial sometimes but needing to have an understanding of what is made up of this billing process.

So if we can go to the first slide, and I kind of read from this period. This is Period 10 Financial Statement. This is through April, and as you know, our year ends June 30. So this is a 10-month review of revenues and expenditures forecasted and the financial position of the County. These big numbers...sometimes you will see like for example the Transient Accommodation Tax. It comes to us only twice a year, and then unfortunately from a cash flow position, the State sometimes does not give us that second payment until we are into August. So we use a 13-month year so that in August we can close out everything one time by collecting invoices from the month ending July 30. So there are many variables that still need to be considered and will not be finalized until we actually close Period 13. My hope is when we get to September each year on the agenda, we will actually have a presentation from Finance that says, "And here is how we closed the year." That should not be coming from me. That should be coming from the Finance Department. The analysis for this General Fund Period, we have revenues like real

property tax, public service companies, the fees that we get charged to us from KIUC, licenses, permit fees, investments, and the Transient Accommodations Tax. The expenses in the General Fund Department, I am only sharing with you for those accounts summarized in the General Fund. If you remember from our budget time, the Finance Department, Mr. Rezentes and so forth, they really cleaned out a lot of those other fund balances. So we will go to the next slide.

If you take a snapshot of where we are right now, we are showing a projected excess of revenues over expenditures of \$22,000,000.00. So I do not want everybody to think you can rush to the bank and we have \$22,000,000 to spend. That is the snapshot in the month of April 30, 2012. Where did we get that money? Well we got \$75 million actually reported in the real property tax category. But remember we collect all of the real property taxes in two months, two months of the year. The February period and the August period. But when you compare our sheet accordingly, we are only showing the \$66,000 as the amount that is budgeted because we budgeted for the whole year and we spread it like an accrual. But the reality is we still have two more months to add to this. And so it really says that there is another \$13.2 million yet to be booked in the months of May and June. So right now, it looks like we have a variance of \$9.1 million, but as you book the rest of the budget for that, we are actually only going to be slightly over in collections, about \$2.8 million in those revenues. So, they will be able to adjust that after month 13 to show us what those comparisons are.

Then we have a serious of subcategories, and the subcategories are the ones that I have shared with you in this budget period, and it shows the public service charges. We have actually about \$3.5 million in public service charges, and we have booked \$2.9 million. That is based on the utility tax of 1.8% to the local utility company based on their sales. This will increase again for the next two months.

The next category I have over there is All Taxes, and there are fees that we have that are considered taxes and for 10 months we had budgeted \$68 million, but actually because we have collected all the property taxes, we are at \$78.7 million, and with two months to go, it looks like we are \$9 million over forecast.

We can go to the next page. Revenues on Other Licenses and Permits, actually we had \$1.165 million for the period reporting 10 months, and we had budgeted \$1.87 million. So we are actually about \$78,000 ahead of fees collected for permits and so forth. And I want to point something out to you. This number often shows up when you look at our permitting process, you know the one we just had discussion about, building permits and so forth. That line shows we have \$187,000.00 that the Administration can use for any purpose related to ADU investigations, transient accommodations, flood zone violations, putting more people on the counter, and so forth. So that number, when you see it in the monthly reports, is a bit inflated, and it is inflated because all of these license and permit numbers are actually higher than what we had forecasted in the budget.

Then we have Rents and Concessions. This goes everywhere, from Spouting Horn through other leases we give like at the golf course and so forth. We are \$160,000 behind in other concessions and rents. Revenue Investments, we just refinanced our bond; we are spending down on capital projects. We had budgeted \$938,000.00. At this point, we are only at \$592. So we are soft \$345,000 in revenues in that category.

Intergovernmental Revenues, as I mentioned to you, this basically is the TAT tax. Now we did not know where the Legislature was going to put our amount, so when we did this budget, we had projected \$11.2 million. But now according to the

Legislative Agreement, they should cap us at \$13 million. So we should experience about another \$1.7 million, but we will not see that for cash flow, probably until August. This is what I was kind of cautioning George about today, that if they do not come through with all of that grant money, you may want to have kind of a contingency plan to tap a little of this.

Current charges for all other services, we are \$112,000 behind for 10 months. So although our TAT is going to be ahead about \$1.5 million, if you add up these other columns, we are going to be short revenue by \$621,000. So we are not unloosening our belt around our waistline because we are not as big as we thought we were for cash.

Then there is a Miscellaneous Category of \$163,000 for all other sources, including penalties and so forth, which we are about \$3,700 better.

So the next sheet will show us where do we stand for this 10 months. We are about \$4.6 million ahead in revenues.

Here is the more concerning piece, and where are we at in expenses according to our budget? We are actually \$17 million under what we spent, but we will not know until August any of those delinquent invoices for projects and so forth. And the other thing I want to make sure we understand is the County is lagging in our payroll by about one month, which is about \$2.8 million, and that will not show up until August, the 13th month when they reconcile everything. So that is where we stand forecasted, but, and here is the big but I need to share with you, for Period 10, this was a snapshot of our current piece, but as I pointed out in line 2, we still have to catch up to the expected revenue that we are not going to see in the last two months from billing our property taxes because we are going to keep adding what we forecasted our money to be, but 95% of the money is already in. A third point here is recently with our flooding that we have all been following, and we recognized our staff, we ended up with \$19.8 million in estimated storm cost and we qualified for the Federal kōkua, but in this particular case, the feds are only going to reimburse us 75%. So there is a pending reconciliation of the repairs from the storm of about \$4.8 to \$5 million. That is not in this forecast for 10 months, but will catch up to us as the grant moneys come in from the Federal government.

I also want to say that end-of-year expenditures and encumbrances need to be anticipated and are not included in what I have presented to you, i.e., like the lag on the payroll and so forth. That will most likely also contribute to reducing the surplus.

I do want to say that some of the key questions that leave here as I did the Council analysis under the financial statements, we really need to get a true up in September from Finance, not from myself, but from Finance. We cannot assume based on the summary levels that have been analyzed at this point that the surplus is what it is at this point. All costs in the County, as I said, are booked on a cash basis, so we probably have outstanding invoices.

The effects of kind of a key result area in pushing projects and so forth and the contributions from like engineering and so forth, are not reflected at this point. And then I think the third point is what is the payroll lag about? I just researched that. It is about \$2.8 million.

The other thing to remember is when we see the CAFR every year for that period 1-5, they do not close the business on that until the CAFR comes. So it is kind of like a forecast until they get the CAFR done, and then we reconcile the Statement of Expenditures and Encumbrances, moneys that we have captured, we know that they are coming in future expenses.

The final considerations I want to point out over here is, as you know, the surplus exists right now by resolution, which is the one I introduced. I have asked Mr. Bynum to finalize an ordinance. I have kind of given a self-imposed deadline of having that in July. If not, I am prepared to work on it as well, but more importantly we started with a pretty high conservative number, about \$25 million, and if you recall, to balance the budget, we worked with Finance and we used a little over \$4,000,000 in the budget ordinance, leaving us a balance of \$21,000,000. But again, now we have these other issues that I am saying like, where does the \$5,000,000 come from the storm damage. We have to tap our reserve and so forth. But we only talked about the possibility of dealing with reforming some tax credits. But there are some other options here that we have never really talked about, for example we have \$218 million worth of debt, the County of Kaua'i. We could determine in this surplus that I am looking at now of about \$14 million, we could aggressively try to pay down more debt, which will then reduce our payment, which is almost \$9,000,000 a year now. But thanks to the Treasury Department, we are probably going to see that shrink about \$600,000 because of the recent refinancing. But it is a debt payment that shows up in our operating budget.

And then there are other considerations as we talk about diversifying our economy, we could possibly use some of this money to accelerate the SEDS Programs, whether they are projects that stimulate the economy, like the slaughter house, or if it is something that adds an amenity, like meeting facilities yet to be determined, but those are a couple of other options. But I did want to give you an overview of the 10 months, and I think express to the Administration that when we get to September, we should have something like this that reconciles the year for us. And that is the whole intent of having the reserve. We could not set that up in the first year because we actually have to close the year that created the surplus, and then we can make some decisions about paying down debt service, accelerating SEDS, or how do we incorporate it in a tax program. So I am just wanting to give you an overview. I am not here to preach the accounting gospel, but I wanted to make sure that you have an idea of what I am looking forward from year-end from the Administration, so that we have a clear understanding and then by the time we get six months later into budget, we have something to work off of. And so that is my presentation, and I will leave you with the rest of the agenda item as Chairwoman.

Ms. Yukimura: Thank you, Chair, but I hope you are open for some questions or discussion.

Council Chair Furfaro: Sure, sure.

Ms. Yukimura: Thank you very much for this overview. I think it is very proactive to do it early on in our new fiscal year. And I think you have raised a lot of interesting considerations as well as information. Councilmembers, questions?

Mr. Chang: Thanks for numbering the pages.

Ms. Nakamura: I have one.

Ms. Yukimura: Yes, Councilmember Nakamura.

Ms. Nakamura: Chair, on page 5, the projected excess of revenues over expenditures, the \$22 million. That is the number that we used in our budget for the upcoming year as the carryover?

Council Chair Furfaro: We actually used that but not realizing that we are going to have \$4.8 million of storm related expenses yet to hit out of that line.

Ms. Nakamura: I see.

Council Chair Furfaro: And there are a couple of other shortfalls in revenue. So I think the number is probably more like 17.

Ms. Nakamura: Okay, thank you.

Ms. Yukimura: Other questions? Chair, I have one then if others do not. On our Intergovernmental Revenues, we budgeted 11 and there is a cap...what is our cap?

Council Chair Furfaro: The cap now is 13, but at the time we were more conservative in estimating what we were going to get.

Ms. Yukimura: Right.

Council Chair Furfaro: So there is going to be a little extra surplus revenue there, in my opinion, but...

Ms. Yukimura: Because the visitor industry...I know our general economy is not robust yet, but the visitor industry seems to be coming back quite well.

Council Chair Furfaro: Yes and so the State is benefiting from all of that extra TAT tax. Before the cap was set, at our peak we received \$16.3 million. So we are about \$3.3 million less than what we would have generated as our allocation.

Ms. Yukimura: But about \$2 million or a little less than \$2 million right now...we budgeted \$2 million under our cap.

Council Chair Furfaro: At this trend, we should get about another \$1.8 million.

Ms. Yukimura: Okay, right. Our Rents and Concessions are quite dramatic in the...

Council Chair Furfaro: Wailua Golf Course, that is a big part of it.

Ms. Yukimura: Oh, is that the cause? Okay, so that is not something we can expect in month 13.

Council Chair Furfaro: No, but it is something we should say in the 13th month like, where are we at with our new forecast. And certainly something we should consider when we step into the next budget because that was a pretty hefty number that they had in there, and we are not getting that concession now.

Ms. Yukimura: And hopefully we will embark on some strategic planning that was funded, as I recall in our budget, so that we might look at that.

I might suggest, being Housing Chair, that another place to put some money if we have extra might be in some housing projects.

Council Chair Furfaro: Yes, yes.

Ms. Yukimura: I think the...and I know there is a strategic plan also that is pending, but the report that we got from Mr. Murashige, Conrad Murashige, of Shioi in how the Pa'anau 50-unit Project really poured economic stimulus into our economy is something to heed, I think. And the economy seems to be turning up, but not that fast and that means we might still have some really good window of opportunity to do cost-effective affordable housing development.

Council Chair Furfaro: Yes, I think that is an excellent fourth point. I just wanted to say here is a couple other things, pay down debt, accelerate SEDS, stimulate the economy versus just immediately the tax issue because we have not raised tax rates in eight years and then, of course, we have the other situation leveraging our borrowing power. We had total assessed value of Kaua'i property at \$19 million, and it is now down to \$15.9 million under the current economics, and that has some impact on our bond rating, although the Financial Team did a great job in refinancing in San Francisco this time around, but definitely something to consider when we get to the end of the year.

Ms. Yukimura: And then I think we are making quite a few fund transfers from the General Fund, and I think one of the things we will have to look at it is our Highway Fund.

Council Chair Furfaro: Yes, and I have to share with you that I would hope very soon in Public Works we will get an update because we had in our CIP piece \$5.7 million of roadwork to be done. Each year we are contributing about \$1.6 million, but we have not really had an update from Engineering on how aggressive they are being with repairing those roads now that we have made that kind of money available to them.

Ms. Yukimura: And we also are due from Public Works a report on the repaving tracking and on that new software and program for estimating our deficit in terms of road timely repair.

Council Chair Furfaro: Yes, yes.

Ms. Yukimura: So that should give us more data to strategize.

Council Chair Furfaro: I am very impressed with Mr. Dill and his investment in this software so that we can get more immediate information.

Ms. Yukimura: I think we are all looking forward to some good data. Any other questions? Comments?

Council Chair Furfaro: Again, I just wanted to give a snapshot with two months left.

Ms. Yukimura: All right. Thank you very much.

Council Chair Furfaro: You continue to handle the meeting.

Ms. Yukimura: You want me keep the meeting?

Council Chair Furfaro: Yes, because our rules say if I make a presentation, I cannot chair the meeting.

Ms. Yukimura: All right, thank you very much, Chair.

Council Chair Furfaro: Thank you.

Ms. Yukimura: Motion to receive is in order.

Ms. Nakamura moved to receive C 2012-210 for the record, seconded by Mr. Chang.

Ms. Yukimura: Anyone wishes to testify? If not we are back here in session, and there is a motion to receive. Any discussion?

The motion to receive C 2012-210 for the record was then put, and unanimously carried.

Ms. Yukimura: We will go onto our next item, please, Madame Clerk.

C 2012-212 Communication (06/18/2012) from the Director of Housing, requesting Council approval to utilize Neighborhood Stabilization Program (NSP) funds for the following:

- (1) To acquire two (2) Short Sale/Foreclosed homes for up to a maximum amount of not more than \$400,000.00 per property, located at:
 - (a) 2151B Kelikoli Street, #20, Lihue, Hawai'i (TMK 3-3-003-037-0020) and
 - (b) 4965 Laipo Road, Kapa'a, Hawai'i (TMK 4-5-017-022), and
- (2) To authorize the County Clerk to sign all legal documents related to the purchase of said properties.

Mr. Chang moved to approve C 2012-212, seconded by Mr. Rapozo.

Ms. Yukimura: I am going to ask to put this at the end of the agenda and ask our staff just to call and find out—I am remiss in not doing this earlier—whether the intention is to sell the house as a leasehold through our leasehold program. Yes?

Mr. Rapozo: According to the communication, it is going to be sold at the 120% of median and below. That is what is in the...

Ms. Yukimura: Sold in fee?

Mr. Rapozo: Fee.

Ms. Yukimura: Is that clear?

Mr. Rapozo: That is how I read it.

Council Chair Furfaro: I would say we could ask for clarification and see if we can get somebody over from Housing.

Ms. Yukimura: Yes or just get an answer even if they cannot come over. Thank you. So if there are not objections, we will just move it down. Thank you.

Council Chair Furfaro: Okay, and then I will take it from here.

Ms. Yukimura: Okay, very good Chair.

Council Chair Furfaro: Item C 2012-213, please.

C 2012-213 Communication (06/29/2012) from Council Vice Chair Yukimura, requesting Council approval for the public release of the County Attorney opinion dated June 18, 2012, regarding the Fiscal Year 2012-2013 Budget Appropriation for the Housing Advisory Committee within the Council Services Budget. This release was discussed and approved during Executive Session item ES-577 (ES-557) at the June 27, 2012 Council Meeting: Mr. Chang moved to approve C 2012-213, seconded by Ms. Yukimura.

Council Chair Furfaro: Vice Chair, I will give you the floor.

Ms. Yukimura: Yes, Chair, thank you. There was some question about the legality of a budget appropriation for a Housing Advisory Committee. We did get an opinion saying that it was legal, and I would like to have the Council vote to release it to the public. And so that is the motion to approve release.

Council Chair Furfaro: We have a motion and a second. Any further discussion before I ask anyone from the public who wishes to speak on this item? Seeing no one, Members, any further discussion?

The motion to approve C 2012-213 was then put, and unanimously carried.

CLAIMS:

C 2012-215 Communication (06/18/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Enterprise Rent-A-Car for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-215 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chang.

C 2012-216 Communication (06/26/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by GEICO, as subrogee for Martin Sadler, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-216 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chang.

C 2012-217 Communication (6/28/2012) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Diane C. Cooke for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-217 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chang.

Council Chair Furfaro: Is there anyone in the audience that wishes to clarify any commentary on these claims? If not, I also want to circulate...I dug it out, the policy statement that references reporting back to the Council when the claim exceeds \$5,000.00. So if anyone would like to see that, it is available to them.

The motion to refer C 2012-215, C 2012-216, and C 2012-217 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Furfaro: I would like to go back to the Housing item and see if we can call Christiane Nakea-Tresler to answer the question that Vice Chair Yukimura had regarding the intent of the home sales and if they are fee or lease.

CHRISTIANE NAKEA-TRESLER, Legal Analyst: Good afternoon, Christiane Nakea-Tresler, Legal Analyst for the Council. I spoke with Gary Mackler and he said all the existing NSP properties are leasehold, and the intention is for these to be leasehold as well.

Ms. Yukimura: Thank you very much for the clarification. That essentially ensures that they will be permanently affordable, so thank you.

Council Chair Furfaro: A little guidance here. Should we go back and close that item? Could you read the number again since we got the answer.

Ms. Fountain-Tanigawa: Council Chair that is Communication 2012-212. We had a motion to approve and a second.

Council Chair Furfaro: Any further dialogue?

Mr. Rapozo: I just want to say...

Council Chair Furfaro: Go ahead, Mr. Rapozo.

Mr. Rapozo: I am glad Councilwoman Yukimura asked for that clarification because that is not what the letter says and that is not how I interpreted it. So I would just ask them when they come across with these types of things, \$800,000.00 worth of purchases, that they be clear. And if it is leasehold, I support that as well, but I think it is important for us to know what type of sales they are. So thank you.

Council Chair Furfaro: I will be asking the County Attorney to send that communication over to some of the department heads. It is not the business of the Council staff to be scrubbing communications to see that it says what it is supposed to say. So we need to make sure it is very precise coming over from the very different heads. I hope that will fulfill your suggestion, Mr. Rapozo? Thank you. County Attorney, did you hear my communication? Thank you very much for acknowledging. Any further discussion?

The motion to approve C 2012-212 was then put, and unanimously carried.

COMMITTEE REPORTS:

A report (No. CR-EDR 2012-05) submitted by the Economic Development & Renewable Energy Strategies Committee, recommending that the following be approved as amended on second and final reading:

"Bill No. 2436 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 16 AND CHAPTER 17 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ELECTRIC VEHICLE CHARGING STATIONS,"

Mr. Rapozo moved for approval of the report, seconded by Mr. Kuali'i, and unanimously carried. (*See later for Bill No. 2436, Draft 1*)

A report (No. CR-FPP 2012-09) submitted by the Finance/Parks & Recreation/Public Works Programs Committee, recommending that the following be approved as amended on second and final reading:

"Bill No. 2437 – A BILL FOR AN ORDINANCE TO AMEND SECTION 19-1.3 AND SECTION 19-1.4 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO PARKS AND RECREATION,"

Mr. Kuali'i moved for approval of the report, seconded by Mr. Chang, and unanimously carried. (*See later for Bill No. 2437, Draft 1*)

RESOLUTIONS:

Resolution No. 2012-44, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO RESTRICTING THE MAYOR'S POWER OVER DEPARTMENTS: Mr. Rapozo moved for adoption of Resolution No. 2012-44 on second and final reading, seconded by Mr. Kuali'i.

Council Chair Furfaro: Testimony please. Please introduce yourself, again, Glenn.

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you, Jay. For the record Glenn Mickens. Good afternoon, Councilmembers. You have a copy of my testimony. Please let me read it for the record and the viewing public. I would strongly support Resolution 2012-44 introduced by Councilman Rapozo, recommending that a Charter Amendment be submitted to the voting public asking under Section 4, "Shall the supervisory power of the Mayor be limited to the Administrative Departments that are not headed by either an elected official or an official appointed by a Board, Commission, or the Council?" In my opinion, the Mayor was very wrong when he suspended our Police Chief and usurped his authority in so doing. Our Police Commission was put in place to prohibit politics from playing a role in this type of decision making, and this Charter Amendment could, if passed, stop any future problems like this from happening. If we wanted a dictatorial type of government, then our Charter would have spelled it out that way. But even though there was some gray area in this issue, I believe that Mel's resolution will now keep this from happening. Thank you, Jay.

Council Chair Furfaro: Thank you. Any questions for Mr. Mickens? None? Thank you, Glenn, for your testimony. Anyone else wanting to testify? Lonnie, come up.

LONNIE SYKOS: For the record Lonnie Sykos. Thank you for attending to this issue on behalf of the public. It is not in the County's best interest not to have clear lines of authority, and so we do need resolution as to whether or not the Police Commission controls the Police Chief, the Fire Commission controls the Fire Chief, the Planning Commission controls the Planning Director, or the Mayor does, as well as whether...this will decide whether the Mayor actually controls the commissions themselves also. So I agree with Mr. Mickens. Our Charter does not appear to set up an extremely strong Mayor's Office, and so I am glad that you are doing this and that we can get some clarity and get off of these issues over whose kuleana is what. Thank you.

Council Chair Furfaro: Lonnie, I want to give some testimony to you on this feedback. I am not going to be supporting this bill and I will tell you why. I think we are close to having an understanding of the Planning, Police, and Fire Commissions' roles in guiding the department, extracting the politics out of it, and so forth, but the Mayor is an Ex-officio of all three of these, and can, in my opinion, go to talk to these commissioners on issues that pertain to the day-to-day operation of the County. That does not mean I agree with where we are at right now. It just means that...and when I say day-to-day operation, I am talking as a manager. The commissions cannot manage the business of our County when they only meet once a month. And so I think the query of this piece raises some concerns that we have to get clarification on the roles of the commissions and the interaction with the Mayor as an ad hoc committee. But we cannot do the business of the County without having a Chief Executive Officer that is accountable for the day-to-day operations. I just wanted to share with you I agree with part of your concerns, not all of your concerns.

Mr. Sykos: So that you understand my concern, it is that it is clear it is the Police Chief in charge of the Police Department...

Council Chair Furfaro: Did you understand my answer?

Mr. Sykos: Well, I did.

Council Chair Furfaro: There is another way to do that than put a Charter Amendment on there that will confuse the issue as to who is directing the corporation called the County of Kaua'i for a \$168 million operating budget every day. You cannot wait to do business based on commissioners driving into Līhu'e. It cannot work that way, so I want to make sure you understood I heard your part about who is in charge of taking the politics out of the picture, but I have to tell you the bigger concern I have is you need a Chief Operating Officer such as the Mayor to run the day-to-day business.

Mr. Sykos: I defer to the person that has to deal with it.

Council Chair Furfaro: Thank you, Lonnie, for your testimony. Any more commentary? Anyone else want to speak?

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo: Are we going to have discussion?

Council Chair Furfaro: Yes, discussion.

Ms. Yukimura: Yes, I am strongly opposed to this resolution. I think it will create chaos in our County because you are going to have volunteer lay people who meet only intermittently responsible for the day-to-day supervision of a department head. That is not functional. As the Chair said, in an operating management framework you need a chief operating officer. Now I think it makes sense to have a commission that does the hiring and firing to give some buffer as to the politics, but the day-to-day supervision cannot be done by a part-time...it is not even a part-time, by a commission. And so this is a major shift in our structure, which is really a strong Mayor form of government versus a City Manager form of government. And the CEO has to be accountable for the operations of the County, and there are things like Human Resources, Collective Bargaining, all of these

kinds of things that cannot be done by a commission, probably even legally cannot be done by a commission. And there is certain uniformity that needs to be kept throughout the County. So this will, in my opinion, not work. That is the bottom line. It is not functional.

Council Chair Furfaro: Further discussion? Mr. Rapozo?

Mr. Rapozo: And I disagree, obviously. I guess, JoAnn used to be a Mayor so she sees things maybe a little differently. This resolution is...the Chief of Police is the manager, is the supervisor of the Department. They take care of the Human Resources. They take care of all of the functions of the Department. The Mayor does not do that. It is the Chief's function. Properly stated, the Mayor sits as an Ex-officio member of the commission. That allows him the opportunity to address the commission and share his concerns. That is how it is set up. That is why he is set up as the Ex-officio. Nonetheless, the supervision of the Department lies in the hands of the Chief of Police, not the Mayor. That is just the way the structure is set up. It has always been that way. It is unfortunate in the recent months that that structure had been challenged basically and now it is going to go to court.

I also want to add that this resolution, the contents of this resolution was being addressed at the Charter Review Commission a couple of months ago, and I was there to testify, and unfortunately and I am not sure why this occurred, but the Commission was advised by the Boards and Commissions Administrator that they were not to explore any more options for the Charter. In fact they had that one night to vote on it, if not it was over. I am still trying to find out why that happened. It really prohibited the Commission from doing their due diligence with this language and that is why this resolution is here today. I had hoped for it to have gone through the Charter Review Commission. They were prohibited from doing so by the Boards and Commissions Administrator, which was clearly, I think, inappropriate because the timing to submit Charter Amendments were months out. So we are still exploring why that occurred.

Nonetheless, they did not have a chance to vet through this, so it is here. This puts it in front of the voters. This puts it in front of the voters. This is not something that is going to make the change. This allows the voters to decide. Do you want a Mayor that supervises the Police Department or do you want a Commission to do so? So I do not profess to be smarter than the voter because I think we all have the same rights as voters, but this just gets it on the ballot. And I think...everyone I have spoken to across this State in the different counties agree, all the legislators anyway, agree that this is the intent of the Commission, the intent of the State law, the intent of the structure of County governments. This just clarifies it so there is no more question and we do not have to go to court every time the Mayor decides to get involved with one of the Commission-appointed department heads.

So this does not affect the running of the department because it is still run by the Chief or the Planning Director or the Personnel Director. This just says that the Commissions will be the authority, and so I am going to be supporting this. Thank you.

Council Chair Furfaro: Mr. Kualii.

Mr. Kualii: Thank you, Mr. Chair. I actually do not agree with the idea that this would create chaos because in fact this is about the Mayor's direct supervision over the department heads. So in the instance of the Chief of Police and

the Fire Chief, there are the Commissions. The Mayor...this all clearly came about because hire and fire was authority given to the Commission, but discipline, which is a part of supervision, was questionable; that was not clear. So in utilizing the direct supervision, in clarifying that, it would clarify once and for all that hire and fire also includes supervision and discipline, and that, in fact, the Mayor should have worked with the Commission to discipline the Chief. But as far as how all the departments are run, the Mayor is not going to go in there and micromanage and manage the departments. He is just working with the head, and in the case of most departments, there are no Commissions or Boards that they work with or report to, so the Mayor would continue to directly supervise from the top. Unless we do something, the problem that happened can happen again because it is not clear distinguishing between hire...it was clear to me that hire and fire any kind of supervisory disciplinary action that potentially could lead to firing is the slope to firing, so it is all included. But that is not what the Attorneys have said, and I think this intent is to let the people make the Charter more clear. So I support this and I do not see the scare of any kind of chaos.

Ms. Nakamura: I will not be supporting this, but the reason why I am not going to be supporting this is because I believe there are processes currently in place to try to legally get some clarification. This has never been a problem for this County all these years, and I believe there is a process...well, maybe there have been. But there is a process in place; we have approved funding for special counsel that the Police Commission requested to resolve this matter in a court of law. And so I would like to get some clarification on the direction, and then move from there. So it is not that I am ruling it out, but I would like to see...I would like to work through the current course of action that we have in place.

Council Chair Furfaro: Mr. Chang.

Mr. Chang: Yes, I am hoping also...thank you, I am hoping also that we will get clarification very soon too. My initial reaction was the same concerns I believe Vice Chair had is that we have a Boards and Commissions that are volunteers on a volunteer basis. It is so difficult for them to be meeting once a month and a lot of times they do not even know what the agenda is. It is just so hard to prepare for an agenda, and an agenda is just crammed in, I just do not believe this is the timing, and I think we will get some clarification very soon as we all hope. Thank you very much.

Council Chair Furfaro: Anybody else wishes to speak before I close by speaking? Go ahead, Vice Chair.

Ms. Yukimura: Yes, in the framework, as I understand, under the present Charter and I think it is good that we are going to get clarification of this, the Mayor does not supervise the Police Department, but the Mayor does supervise the Police Chief as a department head, and the Police Chief supervises the department. And if the Mayor does cross the line to micromanage the Police Department, there are two remedies at least. One is going to the Commission and making that an issue. Also, Police have come to us in our oversight power, which is not supervisory but is investigative and has power to inquire. And the last remedy of all is at the polls during the Election, then change who the Mayor is if people feel that he is not properly doing his job. But the Mayor is the CEO of the County and needs to have a team of department heads because none of the departments are entities to themselves. The Police Department is not just an island to itself. The liabilities that are caused by the Police Department's actions have to be paid for by the County's budget, the taxpayers' money. The implications of accountability are not just in the Police Department itself. And so there is a real balance, and as I

said, I support the buffer of appointing power and firing power, but to invoke from that a daily supervisory power is not what I believe the intention of the Charter or I do not think it is a good framework for a functioning government either. So to have all these islands that are only accountable to themselves and not to the larger County, I do not see as working well.

Council Chair Furfaro: That was your second time to speak. Mr. Rapozo.

Mr. Rapozo: Thank you. Yes, I want to make something really, really clear. There is nothing different between a commissioner and a councilmember, except we get paid. They are appointed by the Mayor and confirmed by this body. They do not only meet once a month. The Police Commission, count up the meetings how much they have had over the last few months. They have not just met once a month. They can meet as often as they need to. So I guess I am taking offense to the comments being made about commissioners like they are just lay people. They are appointed by the Mayor and confirmed by this body. Believe me, when I say yes, it is because I think that person can do the job. I have seen the resume, I have seen the application, we have interviewed them. The only reason they are there is because not only the Mayor, but the majority of this Council, if not all of them, said they can do the job.

The intent of the Charter, as I see it, is to remove the politics from the Police Department so the Mayor cannot go into the Police Chief and say, Chief, do this or you will be fired. Do this or you will be suspended. That was the purpose, and that is exactly what happened, totally, and that is why we are in the mess we are in today because that should have been an action of the Commission. Some of us interpret the Charter one way, some of us interpret something the other way, but the funny part is, like I said I have spoken to numerous attorneys, numerous judges, and in fact legislators and attorneys from off island that agree that the responsibility to supervise and discipline the Chief of Police lies with the Commission and not the Mayor. So I think this clarifies it, puts it on the ballot really, and that is all it does. I think it is unfair to not allow the public to voice in on this very, very, very critical and important issue.

So I can count, we need five votes, we do not have it already, so this is going to die. But I just...we will push again. We have a court case pending right now, and I do not know what the result will be, but I wish two things. Number one, I wish that the Charter Review Commission would have been given the opportunity to hash this out with community input. They were denied that opportunity, and I think that was a horrible thing to do. I think that was very, very wrong, but it happened. The second thing, I would hope that some of my colleagues would reconsider and get this on the ballot. Thank you.

Council Chair Furfaro: Okay, are there any more comments before I give my second round of comments? First of all, I am a little offended, but I will let it go at that because I am the only Councilmember here that has actually been a commissioner, and my role was very focused when I was a Planning Commissioner. I was not really concerned with all of the other items going on in the County. My duty was to review planning, process, and the performance of the Planning Director. That is how I understood it when I took the oath to be a commissioner. The fact of the matter is there are two parts to this. Part one is I believe that my terminology that I used was not about managing the Police Department. It was about being the Chief Executive of a corporation called the County of Kaua'i. You can only spread supervision so far. That is why in the key areas we have commissions, Planning Commission, Fire Commission, Police Commission. I believe it is the responsibility of a Chief Executive Officer to go to these steering committees and that is what they

are. They are the steering committees of police, they are the Board of Police, and come and give his presentation and rationale on why certain actions should happen, and the commissioners vote. The money that has been allocated right now to have this reviewed legally was introduced by myself, and I would like to have that interpretation appropriately done before I look at these other items. The bottom line here, it deals with progressive discipline as a manager. And the Police Commission needs to make sure...I do not care what anybody says, you are employed at-will if you do not have progressive discipline in place, at the end of the year you could be subject to a very ugly employment issue. And that is what the Boards and Commissions are there for, to guide performance, selection, and to my conclusion, under progressive discipline, final exit or termination. That is their jurisdiction, and that is why they are there to take the politics out of it. So two wrongs do not make a right here. How the Charter was structured, those Boards are there for a purpose, and the Mayor, as I said, is an ad hoc member of those three commissions. And if he has a grievance to share, he calls a special meeting and shares the grievance with the commissioners. That is where the performance review is done on the Police Chief, the Fire Chief. It is not done by the Mayor. It is done by the commissioners. They do the performance review. And then there are documents and audit of poor performance, replacement, that is how I see it. So I want to make sure we understand that it is not the Mayor's micromanaging authority that I have in question. What I have in question is the commissioners' responsibility to give fair and equal oversight to the duties of these three commissioners. Therefore, I will not suspending this, voting for this suggested Charter Amendment, but I do stand strong to hear the interpretation on the money bill that I introduced. So on that note, I would like a roll call vote, please.

The motion for adoption of Resolution No. 2012-44 on second and final reading was then put, and failed by the following vote:

FOR ADOPTION: Kualii, Rapozo,	TOTAL – 2,
AGAINST ADOPTION: Chang, Nakamura, Yukimura, Furfaro	TOTAL – 4,
EXCUSED & NOT VOTING: Bynum	TOTAL – 1.

Ms. Fountain-Tanigawa: Motion failed.

Council Chair Furfaro: 2-4 failed. Thank you. Next resolution, please.

Resolution No. 2012-45, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO ADDITIONAL DUTIES OF THE COUNTY AUDITOR: Mr. Rapozo moved for adoption of Resolution No. 2012-45 on second and final reading, seconded by Mr. Chang.

Council Chair Furfaro: We can now ask for public testimony. Mr. Mickens.

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you, Jay. For the record Glenn Mickens. You have a copy of my testimony. Let me read it for the viewing public, please. I completely support Resolution 2012-45 with its addition of Section A-5, which gives our auditor, Ernie Pasion, the authority to deal with "Other duties not inconsistent with the provisions of our Charter, as the council may by resolution require." And as A-5 also notes and I strongly agree with, "No resolution shall compromise the independence of the auditor..." In my opinion, our Council hired a very qualified and experienced person to be our auditor and he is doing the job that you and the public expects him to do. But making sure that no one micromanages his operation is essential to keeping his office completely neutral.

I would add two amendments to this resolution. One, I would make sure that Ernie is capable of getting the funds he needs to address any new duties that he deems necessary, and two, either he or some other authorized body should have the power to enforce violation that his auditing efforts have uncovered. And I really do not see that. Right now, I do not see this body of people any more than Marion Higa. She actually does not have any teeth either in what she does. Obviously she has a lot larger market out there. She has a huge newspaper and she has a television audience to take her gripes to. But as far as Ernie, he does not have that power. As I understand it, his audit can actually show illegal or wrongdoings, but he still has no teeth or enforcement authority to pursue whatever the nexus should take place. Even if there has been no wrongdoing uncovered, but action should be taken to streamline the system. We need that "place" to correct the problem.

So I highly support Ernie in what he is doing. Like I say, I do not think he needs any micromanaging of his job. This body should not be micromanaging if they are going to supply him with funds. You may already...I guess he can come here and get a money bill if he needs money for what you are saying is extra duties; I am not sure. If that is true, then the only thing I think you need is some type of a body to be able to have some kind of teeth that he has an enforcement mechanism. Thank you, Jay.

Council Chair Furfaro: Any questions for Mr. Mickens. No, okay. Mr. Rose, did you want to give testimony? No? Lonnie, did you want to...go ahead.

LONNIE SYKOS: For the record Lonnie Sykos. I agree with this. The Office of the Auditor is one of the most important functions that the County has. It is what keeps us on the straight and narrow, and so I simply make the observation that if the auditor is not free of political pressure, like the Police Chief, the Fire Chief, and the Planning Director, then he is incapable of doing his job over time because political pressure will direct the audits or it will control the funding, and the audits will not occur. Having independence is an absolute necessity for the citizens to be protected from the malfeasance of political acts. This is not about people being criminals. This is about the reality that politics drives politics, and so the Administration, by definition of both the law and civics, everything is political. The Mayor is never not a political figure. And so all the effort that you do to create independence for the Auditor is for the benefit of the public regardless of how the Administration or the persons in departments being audited feel about it. I am in support of this, and as Glenn brought up, it might be a needed addition to authorize the Auditor to take his findings beyond the Mayor. Who does the Auditor give his findings to and what happens if who he is giving the findings to do not want the findings to become public? Right? That is the whole nexus of why the Mayor cannot be in control of everything. The Mayor cannot have access over the public's right to information from the different departments. And so keep Ernie's office independent, keep it well funded, and as best I understand this, I agree that this should be done to enhance the authority of the Auditor's Office. Thank you.

Council Chair Furfaro: Lonnie, I need to share some comments with you because from what I have heard so far, I think some people have a misconception of what the Auditor has. He has a budget he submits.

Mr. Sykos: Correct.

Council Chair Furfaro: And that budget is supported by a plan of what he wants to do in the year for the year.

Mr. Sykos: Correct.

Council Chair Furfaro: Five, six audits, whatever they are. The budget supports that scope. He is required, like every other department, to give us his plan and the financial support during the budget time.

Mr. Sykos: Correct.

Council Chair Furfaro: That has to happen. He then has to follow an audit manual that he produced at my insistence, okay. This Council needs to know, hey, what are the standards for an investigative process and so forth.

Mr. Sykos: Correct.

Council Chair Furfaro: And so he has that in a yellow book, the standard, okay, and that has to be followed.

Mr. Sykos: Absolutely.

Council Chair Furfaro: He also has the power to invoke 3.17, which is the investigative power that we have in our Charter. He can do that. Now, when he gets to a point his investigation is complete, he does present his findings and recommendation to the Council. Whether it goes to the Police Chief, the Attorney General, an outside source, he has that influence, but he needs to be consistent with his plan, and he has to have his plan in front of us before we can support the money that is contracted to the plan. That is the budget cycle. It is a shall and may issue.

Mr. Sykos: Correct, I totally agree.

Council Chair Furfaro: He shall produce a plan.

Mr. Sykos: And he shall follow the yellow book.

Council Chair Furfaro: Very good, thank you.

Mr. Sykos: Thank you.

Council Chair Furfaro: Any more testimony?

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Furfaro: Okay, by this resolution, if the Council so chooses to add a new project to the Auditors, we have to do it by resolution and we have to provide the additional funding he is requesting or on a project that we are requesting. Members, any discussion? Go ahead.

Ms. Nakamura: Council Chair, since you introduced this resolution, I wanted to find out what additional work are we looking at?

Council Chair Furfaro: We could be looking at somebody to evaluate our financials, like I just did.

Ms. Nakamura: So we would have the Auditor's Office evaluate separate from the CAFR.

Council Chair Furfaro: Separate from the CAFR, if we wanted to. We could have the Auditor look into an issue that deals with an appraisal of a certain piece of property that the Open Space Commission wants to acquire to make sure that it is a fair and reasonable price. It could be anything. We could have him look into payroll reconciliation. But right now, unless we have this resolution, he says, here is my plan, that is what I am going to do. It is his plan. We may have something that we want to be summarized. But if we do, we have to add it to his task, and we have to add the funding for it. That is the purpose of this, and all I am also saying is, and he needs to follow the procedures in his own audit manual.

Ms. Nakamura: And we would need to just do it by resolution and put...

Council Chair Furfaro: Yes, and the money to go along with it. I could not think of anything other than those examples right now, but we would cross it at a time where it is after the budget cycle, and something needs an immediate evaluation, resolution and money.

Ms. Nakamura: Just to...this is more of an editorial comment, but it says "Other duties not inconsistent with..." Should it just say, "Other duties consist with?"

Council Chair Furfaro: Then he is going to refer to, well that is consistent with my plan. We may want something that is not specifically in his plan.

Ms. Nakamura: It is just a double negative, so I was just wondering whether...

Council Chair Furfaro: Okay.

Ms. Yukimura: In fact we can add to his plan and to his list by resolution, right, already as long as it is within the ambit of auditing. So some of the things you mentioned as specific possibilities are sort of outside the realm of auditing, like appraisal or...

Council Chair Furfaro: Again, I just used that example, but I will tell you the biggest concern I have is, and you people need to realize it, we have a very healthy budget there, and the reality if do not give assignments is we could have one CPA in the building, we could contract out all the audit functions. I am just saying, we could do that unless we see there is a task we want to assign in the year for the year, by resolution with money.

Ms. Yukimura: Chair, may I? But then we just should not give that generous a budget if it does not really cover the plan or if it is more than a plan.

Council Chair Furfaro: Bingo, bingo. Let me ask you this. Did you see the plan this year before we approved his budget?

Ms. Yukimura: No.

Council Chair Furfaro: There, you answered my question, and now we have made that public. That is not acceptable.

Ms. Yukimura: But the question is whether we need this proposed amendment or whether it is actually within the Council's oversight function because the Council does appoint the Auditor, so there is some oversight. There should be oversight of some sort over everybody, that is called accountability. Is that not already within our oversight powers to adjust and...

Council Chair Furfaro: I am delighted we are having this discussion, delighted.

Ms. Yukimura: Then, perhaps, are we able to still defer this one more time.

Council Chair Furfaro: I have no problem with deferring it either.

Ms. Yukimura: So we can maybe...I think you are suggesting that there are issues to address, and they may be within our existing powers and relationships, so maybe at least some more time to think about this.

Council Chair Furfaro: If you want to make a motion to defer, I am happy with that too. Mr. Rapozo.

Mr. Rapozo: Mr. Chair, I guess I am just going to be blunt. This resolution was passed on first reading, went to public hearing, we have had the opportunity, nothing has changed, there has been no amendments. I am ready to vote. I think we have to remember every time we defer something, our staff has to type everything verbatim and then they have to do it again. I can appreciate if there is new information that came out, but it is not new information. We have heard this again, and this is how I read it, Mr. Chair. Right now, the only thing the Council can do, because it is a Charter, it is not like anybody else we appoint. This is a Charter mandated position. The only thing we can do right now or have him do are Performance Audits. It is already here under Item 2. If we want him to do anything outside of that, then we do a resolution. Even the Performance Audits require a resolution, but if we wanted him to do an audit on the cost of paper, are we getting the best deal on paper, we could. We get a resolution and we get it done. It is not a Performance Audit, but it is an audit on the cost of paper. This just expands the Council's authority to...and it is not Councilmembers' authority; it is not the Council Chair's authority. It is a resolution that would have to be passed that says, yes, Mr. Auditor, we want you to look into this. It is just an expansion of his scope. Again, this is a Charter Amendment proposal, which goes to the voters. I just think we have enough information to vote. I do not know what else...unless there is something else that we are seeking, then I would like to hear that.

Council Chair Furfaro: I think you summed it up just exactly right. The reality is something may come to the attention of this Council that we want to make by resolution...needs some urgent attention. But if his plan is done and we do not do a resolution and it is only limited to Performance Audits, then why would we not want to allocate something to be done. Vice Chair Yukimura.

Ms. Yukimura: Charter Amendments are changing our Constitution, so they are very serious long-term acts, and we are not foreclosing the option of doing that yet by deferring it for two more weeks, assuming we still have time on the calendar. And I do not think we should just put things on the ballot if they are not really needed or if there might be problems with...or if they are not addressing serious problems. And maybe I am assuming we have time and we do not have time. I do not know. Do we have time?

Mr. Rapozo: Mr. Chair, when was the first reading of this?
When was the first reading approved?

Ms. Fountain-Tanigawa: On or about June 13, 2012.

Mr. Rapozo: June 13 was the first reading? Thank you.

Council Chair Furfaro: Okay, whatever you folks would like to do, I want to remind you today is the drop dead date.

Ms. Yukimura: It is?

Council Chair Furfaro: Yes, unless we encroach on the five weeks that the County Attorney has to review on anything.

Mr. Rapozo: I call for the question.

Ms. Yukimura moved for deferral of Resolution No. 2012-45, seconded by Ms. Nakamura, and failed by the following vote:

FOR DEFERRAL: Nakamura, Yukimura	TOTAL – 2,
AGAINST DEFERRAL: Chang, Kualii, Rapozo, Furfaro	TOTAL – 4,
EXCUSED & NOT VOTING: Bynum	TOTAL – 1.

Mr. Rapozo: I call for the question to move to approve,
Mr. Chair.

The motion for adoption of Resolution No. 2012-45 was then put, and failed by the following vote:

FOR ADOPTION: Chang, Kualii, Rapozo, Furfaro	TOTAL – 4,
AGAINST ADOPTION: Nakamura, Yukimura	TOTAL – 2,
EXCUSED & NOT VOTING: Bynum	TOTAL – 1.

Council Chair Furfaro: We only have four votes. Motion fails. Let us move on with other business.

Resolution No. 2012-46, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE PREPARATION OF MONTHLY FINANCIAL STATEMENTS BY THE DIRECTOR OF FINANCE: Mr. Rapozo moved to receive Resolution No. 2012-46 for the record, seconded by Mr. Chang.

Mr. Rapozo: Mr. Chair, if I could have the floor to explain.

Council Chair Furfaro: You have the floor.

Mr. Rapozo: Since I introduced this proposal for a Charter Amendment because I felt that the Council should be allowed the opportunity to review the monthly financials; however, I did meet with Finance yesterday, with Wally, and the Accounting Team, as well as the Budget Team, and I think for the same reasons you discussed in your presentation earlier about how the books remain open, I was not aware of that at the time I requested this resolution. I am also aware that we are privy to the monthly budget statements upon request, so I am obviously number one (1) the Finance Department would not be able to comply with this Charter Amendment because of the CAFR process. Therefore, I would ask for your indulgence and just if we can receive this today.

Council Chair Furfaro: Any further discussion? All those in favor of receiving, signify by saying aye.

The motion to receive Resolution No. 2012-46 for the record was then put, and unanimously carried.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2439) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY OF KAUAI PLANNING DEPARTMENT CIVIL FINES: Mr. Chang moved to refer Proposed Draft Bill (No. 2439) to the Planning Commission for recommendation, seconded by Mr. Rapozo.

Council Chair Furfaro: Is there anyone in the audience that wants to speak on this item? Okay, no one. Members, discussion?

Mr. Rapozo: Mr. Chair.

Council Chair Furfaro: Yes, go right ahead.

Mr. Rapozo: Again, as the author of this bill, it is just allowing or setting up an account within the County that the civil fines that were now passed, we can now issue civil fines to violations, will go into a special account for Planning, and that is all this does. Thank you.

Council Chair Furfaro: Any further discussion? All those in favor for the referral, signify by saying aye.

The motion to refer Proposed Draft Bill (No. 2439) to the Planning Commission for recommendation was then put, and unanimously carried.

Proposed Draft Bill (No. 2440) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED RELATING TO REAL PROPERTY TAX: Mr. Chang moved for passage of Proposed Draft Bill (No. 2440) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 8, 2012, and that it thereafter be referred to the Finance/Parks & Recreation/Public Works Programs Committee, seconded by Ms. Yukimura.

Council Chair Furfaro: Thank you. We have motion and a second. The Chair recognizes Councilwoman Nakamura.

Ms. Nakamura: I am proposing this bill to do...initially it was set up to change the date that we receive the Certified Tax Roll to coincide with the budget. This year when we received the budget, the Certified Tax Roll came...was it one or two weeks after that time? And so several adjustments had to be made to the budget. So by pushing it to March 15, the Certified Tax Roll would be done and coincide with the budget that we receive. And based on some of the amendments we made previously, the department is poised to give it to us in time for the March 15 submittal. In the course of working on this amendment, we also learned that the previous Real Property Tax amendments, not all of them were incorporated into the final version that we approved. So this is also to clean that up, and to bring it all up to date.

There is one additional floor amendment that I would like to make so that at the time of the public hearing, all of the information is in one document. And so I would like to circulate a floor amendment to draft Bill (No. 2440).

Ms. Nakamura moved to amend Proposed Draft Bill (No. 2440), as shown in the Floor Amendment attached hereto, seconded by Ms. Yukimura.

Council Chair Furfaro: Any further discussion? And the Members realize we are doing this on first reading, so it becomes part of the document going forward. Any discussion? If not, all those in favor signify by saying aye.

The motion to amend Proposed Draft Bill (No. 2440), as shown in the Floor Amendment attached hereto, was put, and unanimously carried.

Council Chair Furfaro: Now we are back to this particular piece, which is going to Finance on August 8, 2012. We have a motion and a second. Further discussion?

Ms. Yukimura: Just to clarify in my mind, we are voting on first reading, the bill as amended then, right?

Council Chair Furfaro: Yes.

Ms. Yukimura: Okay, thank you.

Council Chair Furfaro: Everybody is understanding now? And we are sending it to the Finance Committee, right? Okay. Let us call for a roll call vote, please.

The motion for passage of Proposed Draft Bill (No. 2440) as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 8, 2012, and that it thereafter be referred to the Finance/Parks & Recreation/Public Works Program Committee was then put, and carried by the following vote:

FOR PASSAGE: Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST PASSAGE: None	TOTAL – 0,
EXCUSED & NOT VOTING: Bynum	TOTAL – 1.

Ms. Fountain-Tanigawa: Six ayes.

Council Chair Furfaro: Thank you very much.

BILLS FOR SECOND READING:

Bill No. 2436, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 16 AND CHAPTER 17 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ELECTRIC VEHICLE CHARGING STATIONS: Mr. Rapozo moved for adoption of Bill No. 2436, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Chang.

Council Chair Furfaro: Is there anyone in the audience that wishes to testify on this bill for second reading? Mr. Mickens? Lonnie? Mr. Rosa? Anyone? Members, your commentary can be taken now. If not, we will do a roll call vote.

The motion for adoption of Bill No. 2436, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION: Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST ADOPTION: None	TOTAL – 0,
EXCUSED & NOT VOTING: Bynum	TOTAL – 1.

Ms. Fountain-Tanigawa: Six ayes.

Council Chair Furfaro: Thank you very much.

EXECUTIVE SESSION:

Ms. Fountain-Tanigawa: We have the Executive Session pending, and pursuant to the memo you had circulated for the request for deferral of ES-553, ES-554, and ES-555, until the Special Council Meeting of July 18, time to be set.

Council Chair Furfaro: Members, please note that in an earlier memorandum I circulated was to put these on the July 18, 2012 Special Council Meeting, to be advised at 8:30 a.m. So we are deferring these until July 18.

ES-553 Pursuant to HRS sections 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council to provide the Council with a briefing regarding the claim against the County by Kaua'i Akinaka & Associates, Ltd, filed on May 14, 2012, and previously on the Council's agenda as C 2012-189, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Rapozo moved to defer Executive Session ES-553 to the July 18, 2012 Special Council Meeting, seconded by Mr. Chang, and unanimously carried.

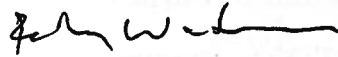
ES-554 Pursuant to HRS sections 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council to provide the Council with a briefing regarding the claim against the County by Waste Management of Hawai'i, filed on May 17, 2012, and previously on the Council's agenda as C 2012-191, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Rapozo moved to defer Executive Session ES-554 to the July 18, 2012 Special Council Meeting, seconded by Mr. Chang, and unanimously carried.

ES-555 Pursuant to HRS sections 92-4, 92-5(a)(4), and Kaua'i County Charter section 3.07(e), the Office of the County Attorney, on behalf of the Council, requests an executive session with the Council to provide the Council with a briefing regarding the claim against the County by Waste Management of Hawai'i, filed on May 24, 2012, and previously on the Council's agenda as C 2012-192, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Rapozo moved to defer Executive Session ES-555 to the July 18, 2012 Special Council Meeting, seconded by Mr. Chang, and unanimously carried.

ADJOURNMENT.

There being no further business, the meeting was adjourned at 5:15 p.m.

Respectfully submitted,



RICKY WATANABE
County Clerk

/wa

(July 11, 2012)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2440), Relating to Real Property Tax

INTRODUCED BY: Nadine K. Nakamura, Councilmember

Amend Section 5A-9.1(a) by amending the definition of “petitioned area” to read as follows:

“petitioned area” shall mean lands within a parcel which are intended to be dedicated to an approved “agricultural use” as described in Section 5A-9.1(a).

(New material is underscored. All material is new.)

V/CS Office Files/Amendments 2010-2012/Bill No. 2440 NKN(1)SS_ds

